The Second Part of

THE OFFICE

OF THE

Countrey Justice of Peace.

Wherein is plainly set down,

Their POWER and DUTY

IN THE

SESSIONS.

The third Edition corrected and enlarged.

BY

William Sheppard Esquire.

PSAL. 82.1.

God standeth in the Congregation of the mighty, he judgeth among the gods.

PROV. 21. 3.

To do Justice and Judgement is more acceptable to the Lord then Sacrifice.

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The Second Part of the Office of the Countrey Justice of Peace.

Chap. I.

Of the Sessions.

Part II. Sessions what.

THE Sessions is a Court where the Justices of the Peace do sit for the execution of their office.

Sect. 1. How many kindes. General. Special.

There are two kindes of Sessions; the general or Quarter Sessions, is that Court or sitting wherein all the Justices of the Peace do sit together for the generall execution of their authority and commission over all their limits; these are called quarter Sessions, because they are kept quarterly, four times in the year, they are also called open Sessions, because they are kept in an open place; and principall Sessions, because herein the authority of the Justice of Peace doth principally appear. The speciall or privy Sessions, which is a sitting procured upon some special occasion, not for the generall service of the commission, and commonly in a private way or place, for the more speedy execution of Justice, in some special cases; as for the inquiry of riot, or forcible entry, placing of servants, or the like. It is called Riot,

Part II. Chap. 1.

also a Statute Sessions, being enjoyned by certain Statutes, that they should meet at certain times in every Hundred, and that the Constables of the Hundred do come thither, and that Masters and Servants do appear for the deciding of differences between them; and the bestowing of people that are fit to serve and refuse, or cannot get Masters in service. And these are of speciall use to deliver Goals of unruly servants, petty thieves and others which get no good by lying there. But it is held if there be one Justice of the *Quorum* present, they may hear and determine any article within the commission of the Peace at this Sessions as well as at the Quarter-Sessions, and accordingly they may give in charge what shall seem good to them; So also upon Statutes as give them a general power of enquiry without restraint to the Sessions, as that Statute of 25 of *H.* 8. 13. of sheep, and upon all Statutes that do use the word Sessions, indifferently without adding, generall or speciall. as 5 *Ed.* 6. c. 4. of fighting in a Church-yard or Church, 14 *Hen.* 8. ch. 11. 19 *Hen.* 7. c. 11. of hunting, 5 *Eliz.* ch. 13. of linnen cloth, 2. & 3. *Ph.* & *M.* ch. 7. of Fairs and Markets and others. But not of other Statutes whose enquiry is to be at the Quarter-Sessions, 14 *H.* 7. 8. 37. *H.* 8. c. 7. 14 *H.* 7. 8. 14. *H.* 6. c. 4. 5 *Eliz.* ch. 4 *Lan.* ch. 19. 20. It seems therefore to be a more apt division, thus; The Sessions is either open or private: The open is either general as Quarter Sessions; or Special, as other Sessions at other times. The private, is that which is done in a private way, for some particular service. Or thus, Sessions is either Generall, for all the work of Justices

Servants.

Goale delivery

Quorum.

Juſtices of Peace in generall; Special, *i.* for ſome eſpeciall ſervices; or particular, *i.* for ſome partiular work. Part II. Chap. 1.

The general Seſſions of the peace muſt be held four times a year at leaſt (more if need be) at the times it is uſually held once in every quarter (to wit) *Sect.* 2. The time.

In the firſt week after
- St. *Michael.*
- The *Epiphany.*
- The cloſe of *Eaſter.*
- The tranſlation of Saint *Thomas the Martyr* being the ſeventh of *July,*

It is *Daltons* opinion that the weeks wherein the Feaſts happen muſt be firſt ended before the Seſſions can begin. But herein it is ſafeſt to follow the cuſtome of the place, *Dal.* Juſt. of the Peace. 16. And thus it muſt be holden through the Realm. And it cannot well be kept at any other time; the Juſtices were bound by their Oaths to keep at this time, but this clauſe is now omitted, it may be continued, one, two, or three daies, or more, as there is occaſion of buſineſſe to diſpatch; for the time of keeping the Seſſions for labourers, it may be twice a year, between *Michaelmas* and Chriſts *Nativity.* and between the Annunciation of the Virgin *Mary,* and the Nativity of S. *John Baptiſt.* But any other ſpeciall Seſſions may be holden at any time when pleaſe the Juſtices to appoint. 33 *H.* 8. 12. *R.* 2. 10. *ch.* 10. 37. *H.* 8. *ch.* 7. 2. *H.* 5. *ch.* 4. *Lamb.* 597. 623. 36. *Ed.* 3. *ch.* 12. 14 *H.* 6. *ch.* 4. 3. If the Seſſions be held at any other time, it ſeems their acts are good, and the Juſtices only puniſhable, for the Statutes are not in the negative (and not at any

Part II. Chap. 1. Sect. 3. The place.

other time) it ought not to be done, but done is of force.

It seems it may be kept in any place of the County, the most apt place is the most eminent place of the County, the principall and chief Towns, and where it hath been used to be held; See the Statute of 14. *H.* 6. *ch.* 3.

CHAP. II.

Of the Judges there which be Justices of Peace.

Sect. 1. The Judges in these Courts.

THE Judges in the Generall or Quarter Sessions, and in the speciall or particular Sessions are the same, being the Justices of the Peace of the County, who are appointed by the Commission to attend the peace of their County. And amongst these some are for special respects made of the *Quorum*, because some busineſſe of importance may not be done without the presence, or assent of them, or one of them. They are so called because the Commission is thus, Of which *A B C* we will to be one. And the most eminent man amongst these is commonly the *Custos rotulorum* that keepeth all the Records, These are all of them Judges of Record, and have a judiciall power, and therefore cannot depute any under them to execute their office. And the Acts done before them are Records against the truth whereof no Avermentlieth. For in some cases it is of greater credit then any Presentment by a Grand Jury, and it is not traversable. This Record, sitting the Court, is in the breast of the Judge,

Quorum.

Records.

and

and amendable; but after it is entred in the Rols, it is not to be altered. And hence it is that a *Supersedeas* of the peace made by one Justice of Peace under his seal, brought into the Court, is a sufficient record, to prove that there is a recognizance of the peace taken by the same Justice of peace, and warrant enough to call the party bound thereupon, and if he make default to record it. *Lamb. 1. Book ch. 13.*

Superiedeas.

Recognizance.

The general Sessions cannot be kept with lesse then two Justices of the Peace, and one of these must be of the *Quorum*. And in cases where more then two are necessary, to do any thing out of Sessions, there it cannot be done by fewer in the Sessions. And albeit one may do many things out of Sessions, yet the same thing if it be done as an act of the Court, may not be done at the Quarter Sessions with fewer then two Iustices of the peace, and one of them of the *Quorum*. But the speciall or particular Sessions may be kept by one or more Justices of peace, according to the nature of the work there done, for as to the execution of all their power given them by their Commission, and all such Acts of Parliament as require two Justices of Peace, *Quorum nunc*, there they must have two such Iustices. But where power is given to two other Iustices of peace, as to send to the house of correction such as will not work, or the like: or to one Iustice of peace, as in a forcible entry, or the like; there the Sessions may be kept by such Iustices of peace, and is good for these Acts. And in these Courts their power is joynt, yet so, that if one alone see a Riot, he alone may record it, and imprison the party. *Fitz. Just. of Peace. 8.*

Quorum.

Justices.

CHAP.

Chap. III.

Of the Power of the Justices of Peace in the Quarter Sessions.

Sect. 1. The power and duty of the Justices of Peace in the quarter Sessions, and what may be done there.

ALl the power of the Justices of Peace, is derived unto them two waies. 1. By the Commission of the Peace. 2. By divers Acts of Parliament. By both which they have a power or jurisdiction, and a power of Correction, and all the power which the Ancient Conservators of the Peace had, and much more. They are to labour to keep the Peace, withhold men from, and suppresse injurious force and violence against mens persons, goods or possessions, restrain offenders, rioters, and all other barreters. And for their duty in the Quarter Sessions, in general this is to be known, That all that they may do out of the Sessions, or at any other Sessions, they may do at this Sessions, and much more, for every Quarter Sessions is a Sessions, though every other Sessions be not a Quarter-Sessions, *See therefore Infra*, what may be done by speciall Sessions, or out of Sessions. Herein they may and must endeavour to keep the Peace and all the Ordinances and Statutes made for the conservation thereof, and for the quiet government of the people, hear and determine at the keepers of the Liberties suit, all trespasses against the peace, and many felonies, and inflict punishment according to law, pursue, take, arrest, and chastise offenders, Rioters and all other Barretors, according to their offence, the laws, and their own discretion; take sureties of the Peace of them that break the peace, and

Peace breakers. Rioters. Felons.

and good behaviour of them that be not of good fame, or that they suspect. So they may and must see, the Statutes for hue and cry after felons, against murtherers, robbers, felons, night-walkers, affrayers, those that wear armour *in terrorem*, that make Riots, forcible entries, Robberies, that are come from beyond Sea, and wander about, and live idlely here, and all the Statutes against force and violence, against the peace, put in execution. And in cases where they do suspect, they may arrest, examine, and if they see cause imprison. *See Commission of the Peace*, 18 *Ed.* 2. *Stat.* 2. *ch.* 2. 1 *Ed.* 3. 15. 34. *Ed.* 3. 1. 4 *H.* 7. 12. 33 *H.* 8. 10. 37 *H.* 8. 7. More particularly.

Sect. 2. Treason.

Firſt, They may enquire and take Indictments of all Treason, and misprision of Treason, but cannot proceed to hear and determine them.

Felonies.

Secondly, They may in this Court hear and determine all felonies by the common law, and some think that the Justices in this Court may determine any felony, great or small, and deliver the Goal of all Felons. But this is much doubted by others, and held that they cannot deliver suspected persons by Proclamation. For if an Indictment be against a man for any thing above petit Larceny, and the Grand Jury finde an *Ignoramus* upon it, the Sessions connot deliver him. *Resolved by the Judges temp. Car. Reg.* 2. but they must binde him over to the Assizes there to be acquitted, *Fitz. Ju. P.* 14. The most common practise therefore is, that all the prisoners that are in question for any felony above petit Larceny, are referred to the Goale delivery, for albeit it be out of question, that for such felonies as are

so

Part II. Chap. 3.

ſo by the common Law, and by any Statue, the Iuſtices of Peace in this Court have power to hear and determine, as ſuch as are turned over by Sheriffs out of their turn; and others, that in ſtrictneſſe they may hear and determine it, yet this is not uſuall. 1 *Ed.* 4.2. But there are ſome felonies, as upon 3 *H.*7.18 33 *H.* 6.1. And the 8 *H.*6.12. for imbeſiling, Record, and 5 *Eliz.* 4. for forging of Deeds, that they have not to do with in this Court. So where one is ſmitten, or take goods in one County and die, or carry the goods into another County, or is indicted as an Acceſſary to a principal in another County, in theſe caſes, and ſuch like, as where there is an indictment taken before any other, they cannot hear and determine theſe felonies, for they are Iuſtices only of this County, and can try Indictments only taken before themſelves. And if Indictments be taken before them of ſuch things whereof they have not conuſance, they are void. *Dalt. Juſt. P.* 65.

Sect. 3. Treſpaſſes.

Thirdly, They may hear and determine all treſpaſſes againſt the publike peace.

Fourthly, They may enquire by Iury of all offences againſt the common, or Statute law, belonging to their conuſance.

Fiftly, They may take view of all preſentments and Indictments, made or found by the Iury.

Sixtly, They may grant out proceſs againſt the offenders, to cauſe them to come in to anſwer.

Seventhly, They may take and try ſuch offenders upon any former or preſent Indictment or Preſentment, before themſelves, or any other Iuſtices of Peace there after the offenders do appear.

Eighthly,

Eighthly, they may upon conviction give judgment of Fine Amercement, or otherwise, as the cause deserves, and inflict punishment, and see execution done according to the laws. And all this they may do in their other Sessions. Part II. Chap. 3.

Ninthly, and they may in this Court also hear and determine all offences, which by any Statute law are referred to their determination. And here it is to be observed, that many Statutes give the Iustices of Peace power to do some things in their Quarter Sessions, which they do not give them power to do in their special or private Sessions. For when a Statute gives them power to hear and determine, and doth not say where, nor how, or gives them power to do it in their Sessions, and saith not what Sessions, there it may be done at any Sessions. But where a Statute gives power to the Quarter Sessions, as 32 *H.* 8. 3. about horses, 43. *Eliz.* 3. about poor, 5. & 5. *Ed.* 6. 25. about the enquiry of the breach of a Recognizance, 4 *Jac.* 5. about drunkennesse, 5 & 6 *Ed.* 6. 21. *Jac.* 22. about ingrossing, 1 *Ed.* 6. 1. about sending a Writ to the Bishop, and many others. Or to the Generall Quarter Sessions, as 5. *Eliz.* 9. about Perjury, 4 *Jac.* 5. about drunkennesse, Ordinance for the *Directory* and others, or to the general Sessions, as 2. & 3. *Ph.* & *M.* 3. about kine and calves. Ordinance for the directory, 5. *H.* 8. 7. about Searchers of Pewter, 33 *H.* 8. 1. about cheating by false Tokens, *&c.* 1 *Jac.* 6. about rating wages, 39 *Eliz.* 17. about Souldiers, 39 *Eliz.* 11. about Logwood, 4 *H.* 8. 7. about Pewter and Brasse. See 22 *H.* 8. 5. about repairing of Bridges, in these cases the private Sessions cannot meddle with it. So also it seems where

Quarter Sessions. *Sect.* 4.
About horses.
Poor.
Recognizance.
Drunkennesse.
Ingrossing Writ.
Perjury.
Drunkennesse.
Directory.
Kine.
Directory.
Searchers of Pewter.
False tokens.
Wages.
Souldiers.
Logwood.
Pewter and Brasse.
Bridges.

it

Part II. Chap. 3.

it is ordinary Sessions, as 4 *Jac.* 5. about drunkennesse. But for the opening of these things more fully, these things are to be known, That the Justices of the Peace in the Quarter Sessions are enabled to do many things by divers Acts of Parliament which must be pursued, as in these particulars following.

Drunkennesse.

See after Cha. 7.

Sect. 2. About Recusants and Papists maintaining the authority of the Pope.

1. They may in this Court enquire of all the offences against the Statute of 5 *Eliz.* 1. about the maintaining of the authority of the Pope, and then they must certifie the presentment taken before them into the upper Bench within 40 daies, if it be Term time, or the first day of the next Term *Subpœna* one hundred pound, and this cannot be in another Sessions.

2. They may here hear and determine all offences, except Treason, and misprision of Treason, against 23 *Eliz.* for retaining the subjects in their due obedience.

Warrant to take away Arms.

3. Four of the Judges of this Court, in the Court may give warrant to take away from the Recusant all his armour, Gunpowder and munition, other then necessary weapons for their defence, and to place and maintain them elsewhere at their charge. And if they refuse to deliver them, or oppose it, they forfeit them, and may be imprisoned three moneths without bail by these Judges from this Court, 3 *Jac.* 5. 6. Give the forfeiture due from a Popish Recusant to him that sueth for it in this Court, 3 *Jac.* 4.

Commitment.

Mitigation of a Fine.

4. If a person indited be convinced or confess the fault, they cannot mitigate the fine set by the Statute; But if he protest his innocency, yet *quia non voluit placitare* and put himself upon the grace of the Court, it may put a lesse Fine, and stay

stay the prosecution. *Rep. Judges* 1633. Part II.

5. They have herein also divers powers given them by some Statute Laws, which are after set down. Chap. 4.

CHAP. IV.

Of their powers in particular.

THEY may by Order at this Sessions, if they see cause, forbid the Transportation of Corn beyond Seas, after the Justices of Assize and others having authority to do it have first permitted it. 13 *Eliz.* 13. which they cannot do in the private Sessions. *Sect.* 1. About Transportation of Corn.

They may at this Sessions, and not at a private Sessions, upon a motion, make an Order to two of the Justices of the Peace, not being of Kin, alliance, councell, or free to either party to set out a fourth part of the Soyle, wherein another hath wood which he intends to cut down, the same being to be set out before the wood is to be cut, 35 *H.* 8. 17. 13 *Eliz.* 25. *Sect.* 2. About the division of a wood. Orders.

At this Sessions held next after Michaelmas the *Custos Rotulorum*, or two of the eldest Justices of the *Quorum* must appoint the two that are to oversee and controll the Sheriffs and his under-Officers Books of Amercements, and this cannot be done at any other Sessions of the Justices of Peace, 11 *H.* 7. 15. *Sect.* 3. About oversight of the Sheriffs Books.

At the quarter Sessions after Easter the Justices of Peace are to set down the prices of all Vessels of Ale, Sope and Beer that shall be made and sold *Sect.* 4. About the Assessement of the prices of Vessels.

Part II. Chap. 4.

ſold out of all Cities and Corporate Towns, 23 *H.*8.4.8. *Eliz.* 9. *Dalt. I.P.* fol. 184. which cannot be done at their ſpeciall Seſſions.

Sect. 6. About uſers of Logwood. Fine. Pillory.

In this court, and not at any ſpeciall Seſſions, the Iuſtices of Peace may puniſh by fine of 20.l. and Pillory the deceitful uſers of Logwood, upon 39 *Eliz.* 11. And he is to be ſet in the Pilory in the Market Town, where the offence was done, or if it be out of a Market Town, then in the next Market Town, there to be all Market time, one or more daies as the Iuſtices think fit.

Sect. 7. About converting of Barley into Malt. Order.

In this Court and not in any other Seſſions they may and muſt reſtrain, ſuppreſs or diſcharge the ſuperfluous number of Maltſters in part or in all by 39 *Eliz.* 16. And alſo reſtrain ſuch as they think fit to be reſtrained from buying of Barley to convert into Malt in part or in all, for ſuch time as they ſhall think fit, which if they obey not, any two Iuſtices of Peace may puniſh out of Seſſions.

Sect. 8. About buying and ſelling of Butter and Cheeſe.

Here and not in the other Seſſions they may for a time forbid them that buy butter and cheeſe within their Countrey under pain of the double value of the things upon 3. and 4. *Ed.* 6. 21. 21 *Jac.* 22.

Sect. 9. About Regrators, Foreſtallers, &c.

Foreſtallers, Regraters, Ingroſſers, Badgers, and Drovers are to be puniſhed, hereupon 5 & 6 *Ed.* 6. 14. and 5 *Eliz.* 12. and this cannot be in the ſpeciall Seſſions. *See fol.*

Sect. 10. About Cloth.

The diſtribuion of the penalties for want of weight, length, and meaſure of cloth, two parts to the poor, and one part to the overſeers and ſearchers, if it muſt be at any Seſſions, muſt be at the quarter Seſſions, by 21 *Jac.* 18. *Sed quære bien.* For much may be ſaid to prove that it may be done out of Seſſions.

Two

Two Searchers of Pewter and Braſſe upon 4 *H.* 8. 7. muſt be made by the Juſtices at this Seſſions next after *Michaelmas*, and they may not be made at any other Seſſions.

Sect. 12. Treaſurers of the County ſtock.

Treaſurers of the County ſtock for relief of the poor maimed Souldiers and Mariners, are to be choſen at this Quarter Seſſions next after Eaſter, and not elſewhere, of ſufficient men, for one year, by 43 *Eliz.* 3. So alſo the Treaſurers for the relief of the priſoners in the Kings Bench and Marſhalſy are to be choſen at the ſame Quarter Seſſions, and not elſewhere, of able men, for one ye ar, upon 43 *Eliz.* 2. So Treaſurers for the relief of maimed Souldiers, and the widdows and orphans of Souldiers, ſlain in the laſt wars, are to be choſen at any Quarter Seſſions, by the Ordinance of *May* 1647.

Sect. 13. Collector of the money for the Goal.

The Collector for the money for relief of the priſoners in the common Goal, is to be choſen by the Iuſtices in this Court, and not elſewhere, and may be longer then a year in his office. 14 *Eli.* 5.

Sect. 14. Common Informer.

If any common Informer following his ſuit by Deputy and not in perſon, or by his Attorney, or if he compound with the offender before anſwer, or after, without licenſe of the Court, he muſt be puniſhed in this Court, and it cannot be at a private Seſſions, 18 *Eliz.* 5.

Sect. 15. Clerks of Courts.

So if any Clark that receives the Information, do not ſet down the day, moneth, and year of exhibiting it, or not indorſe upon the proceſſe the Informers Name, and the Statute upon which he goes, 18 *Eliz.* 15. or make out proceſſe before this be done, the penalty of forty ſhillings is to be impoſed here, and if the Informer have his hand in this, or take reward

Part II. Chap. 4.

without licenſe of one of the Courts at Weſtminſter or compound without licenſe, he is to be put in the Pillory two hours in a Market Town, made to pay ten pound fine, and put out of his office by this Court, and not any other Seſſions.

Pillory. Fine.

Sect. 16. Officers.

The officers which are made at this Court, and cannot be made by any other Seſſions, may not properly be puniſhed for their faults elſewhere, but are to be puniſhed at this Seſſions: But for other officers that are makeable, at either of the Seſſions, or are equally attendant to both, they may be puniſhed at either of the Seſſions.

Sect. 17. Maſter of Bridewell.

The maſter of the houſe of correction is to be made by the Juſtices of Peace at their quarter Seſſions, and not elſewhere; and he is to continue for longer then one year, 30 *Eliz.* 4. 7. *Jac.* 4.

As touching that which concerns the Juſtices of Peace, theſe things are to be known.

1. That they may at this quarter Seſſions and at no other Seſſions, take order, by building a new, or converting an old houſe, to prepare and erect one or more houſes of correction, in what place of the county they ſhall think fit.

Houſe of Correction.

2. They may there cauſe them to be aſſured on whom they pleaſe in truſt for this uſe. And this may be done without any Licenſe from the Keepers of the Libeities, and may be incorporated alſo if they pleaſe.

Licenſe,

3. They may alſo take order here to provide a ſtock of money and other neceſſaries, as a backſide Mills, Turn cards, to ſet Rogues and others to work, for theſe houſes are to be houſes of work for the orderly, as well as places of puniſhment for the diſorderly.

4. They

4. They may here let down orders from time to time for the government and ordering of the house-ſtock and perſons in it, appoint and give allowance to Governors. Orders.

5. They may here take order for the ſending thither and puniſhing of Rogues and other idle and diſorderly perſons, who are not to charge the country but to live there by their labour. Rogues.

6. At this Court they may puniſh or remove the Governour, according to their diſcretion, for his neglect of his duty, 39 *Eliz.* 5. 4. 7 *Jac.* 4.

They are to certifie to the next quarter Seſſions, and not elſewhere, all the Preſentments of any Supervisors of High-waies brought in to them, 5 *Eliz.* 13. 18 *Eliz* 9. And this cannot be at the other Seſſions. And here the offenders are to be fined. *Sect.* 18. High-waies. Preſentment. Fine.

He that is bound by Recognizance for the good behaviour for ſeven years for unlawfull hunting, breaking of the head of Fiſhponds, or the like, upon his acknowledging of his offence and giving ſatisfaction to the party wronged, in this quarter Seſſions, may then and there be diſcharged. And after this Seſſions, he may be diſcharged at other Seſſions. And if the offender at any open Seſſions confeſſe his fault, and give ſatisfaction to the party grieved, he may releaſe him within the ſeven years, 3 *Jac.* 13. 5. *Eliz.* 21. About Recognizances. Diſcharge. And taking of it.

The Juſtices of Peace may in this Court by preſentment, information, or otherwiſe, as they think fit, enquire whether Ale-houſe-Keepers have done any act to forfeit their Recognizance, and if they have, ſend for them in by proceſſe to *Sect.* 19. Ale-houſe keepers.

Part II. Chap. 4.

ſhew why it ſhould not be levied, and hear and determine the ſame according to their diſcretion, 5 & 6 *Ed* 6. 25.

Sect. 20. About him that hunteth by night, &c. Fine.

The fine to be ſet upon him that hunteth diſguiſed by night, and confeſſeth it upon examination, muſt be ſet at this Seſſions, by 1 *H.* 7. 7. and cannot be ſet at the other Seſſions of the Peace.

Sect. 21. About making rates or reſtſying of them.

The rating of wages for labourers and ſervants muſt be at the quarter Seſſions after *Eaſter*, or within ſix weeks after, and cannot be at any other time, or in any other place, 5 *Eliz.* 4. 1. *Jac.* 6. 39. *Eliz.* 22. 1. *Jac.* 25. And at this Seſſions they muſt examine how it is obſerved. Yet ſee 13 *R.* 2. 8.

For priſoners in the Kings Bench or Marſhalſey.

In their quarter Seſſions after *Eaſter*, and in no other place, nor at any other time, they may and muſt for the relief of the priſoners in the Kings Bench and Marſhalſey, rate all the Pariſhes of the County weekly, as they think fit, ſo as no pariſh be under a half-peny, and at or above ſix pence, and all the County together, but not two pence a pariſh weekly, and appoint Treaſurers to receive it, and at the years end appoint new Treaſurers, and call the old to account, and appoint how the ſurpluſage of mony ſhall be diſpoſed. And theſe ſums are to be rated upon the pariſhes by the Conſtables or Churchwardens, or in their default, by one Juſtice of Peace, 43 *Eliz.* 3. See.

And the Juſtices are here to ſet down how much ſhall be ſent quarterly to the Kings Bench and Marſhalſey, but it muſt not be leſſe then twenty ſhillings a year to each of them. This money is to be levied and paid to the High Conſta-

ble,

ble, who are to pay it at every quarter Seſſions to the Treaſurers.

They may here rate every pariſh in the Shire for the relief of the priſoners in the common Goale, as they think fit, ſo as they exceed not ſix pence or eight pence a week upon a Pariſh. And this being levied by the Churchwardens, and paid over to the High Conſtables or head Officers of the place, they are to pay the ſame at this Seſſions, to ſuch as the Juſtices in this Seſſions ſhall appoint to be there ready to receive it, 1 *Jac.* 25. 14 *Eliz.* 5. And this cannot be done at the other Seſſions.

For priſoners in the common Goal.

They may and muſt at the quarter Seſſions after *Eaſter*, and not elſewhere, or otherwiſe rate the whole County, for the relief of maimed ſouldiers and Mariners, no pariſh above tenpence, nor under twopence weekly, and if there be above fifty pariſhes in the County, the whole rate muſt not exceed ſixpence a pariſh, 43 *Eli.* 3. and they may at any quarter Seſſions ſet the like or a greater rate, not above two ſhillings ſixpence, nor under twopence a week on a pariſh, on the County, for help of maimed Souldiers, widdows and orphans, of men ſlain in the laſt war. And theſe moneys the Churchwardens and Conſtables of every pariſh muſt collect and pay to the High Conſtables ten daies before quarter Seſſions, and the High Conſtable to the Treaſurers at the Seſſions, 43 *Eliz.* 3. Ordinance of Parliamens, *May* 1647. & *Aug.* 1647.

For maimed Souldiers, etc.

If a pariſh or hundred be not able to relieve their poor, the Juſtices at this Seſſions, not at a petty Seſſions, may rate any place within the County to be contributary, 43 *Eli.* 2. And if the

For the poor.

Part II. Chap. 4.

poor have parents, or grand parents, children, or grand-children, that are able to relieve them, the Justices may at this Sessions compell them to contribute towards their relief, 43 *Eliz.* 2.

An over-rate.

If any be grieved by a rate made for the poor, or in any of the cases before, he must be relieved here, and cannot be relieved elsewhere, 43 *Eliz.* 2. 14 *Eliz.* 5. 18. *Eliz.* 3. So of a rate made for the Church upon the Ordinance of 8 *Feb.* 1647.

For them that have the plague.

The taxes made by two Justices of Peace in the country for the relief of them that are sick of the Plague, being sent into this Sessions (as they must be) may be there continued, enlarged, or extended to any other part of the county, as the Justices shall see cause, 1 *Jac.* 3.

Sect. 22. About assignment of Pensions.

The Assignment and Revocation of pensions, for souldiers maimed, old and new, and of the widows and orphans of souldiers, slain in the late wars, and Mariners, must be by the Justices at this Sessions, and cannot be at any other Sessions, and here they may set down or alter as they see good. And here they may fine the Treasurer if he refuse to pay it, 1 *Jac.* 25. 43. *Eliz.* 3. Ordinance of *May* 1647. Decemb. 1647.

Sect. 23. About disposall of the surplus sage of Stock in the Treasurers hands.

The Justices may here dispose of the surplus of the County stock to charitable uses, according to the Statutes for the relief of the poor, and punishment of Rogues, 43 *Eliz* 3.

Sect. 24. About the ordering of the poor or Rogues Settlement.

The ordering of matters of the poor if any thing be amisse done by the Overseees and Church-wardens, must be at this Sessions. And therefore the removing and setling of poor, unlesse they be Rogues, is to be done by order of this

this Seſſions. And here they may as they do out of Seſſions (if they will) binde the poor children Apprentices, 43 *Eliz.* 2. But it ſeems the queſtions about Rogus may be determined at any Seſſions, upon 39 *Eliz. Dalt. Juſt. P.* 120. except dangerous Rogues, who are to be puniſhed at this Seſſions by a brand, with a hot Iron, *&c.* 39 *Eliz.* 4. 7 *Jac.* 4. But for the point of ſetling, ſee in the other point of the Juſtice of peace office in Chap. 18.

Binde poor Apprentices.

Rogues.

It muſt be by order of this Seſſions, that the Church-wardens and Overſeers of the poor, with conſent of the Lord of the Mannor, may ſet up a Cottage on the waſte ground there, 39 *Eliz.* 3. 43 *Eliz.* 2. and it cannot be done elſewhere.

About ſetting up of a cottage. Poor.

They may at this Seſſions licenſe the ſelling of wine, in Towns that are not Corporate, and otherwiſe none may ſell but by ſpecial grant from the King, 7 *Ed* 6. 5. And this cannot be at another Seſſions.

Sect. 24. About granting Licences for Wine.

A licenſe to him that keepeth Hawks, to ſhoot hailſhot in a birding-piece or hand-gun, at Crow, Pye, Chough, Rook, Ringdove, or leſſer bird for hawks meat only, muſt be had at this Seſſions, 1 *Jac.* 27. not elſewhere.

For ſhooting.

Drovers of Cattel, Badgers, Laders, Kidders, Carriers, buyers and Tranſporters of corn, grain, Buttter and cheeſe muſt be licenſed at the quarter Seſſions, and cannot be licenſed elſewhere. And here it muſt be under the hands and ſeals of three Juſticees of Peace, *Quorum unus*, neer the place where the party hath dwelt three years before; nor may they ſo licenſe retainers or houſholdſervants, but houſholders, married men, and of thirty

For drovers, &c

Part II. Chap. 4.

years old; nor may they give to them any licenſe, for longer time then one year, from the date of it, which muſt be at the Seſſions, otherwiſe they are void. 3 *Ed.* 6. 14. 5 *Eliz.* 12. 13. *Eliz.* 13.

They may hear and determine all matters of controverſie touching Contract sand Marriages, and all exceptions againſt them, and touching the diſtribution of the forfeitures upon that Law: Where pariſhes are ſmall or places are not within any pariſh, or no uſual exerciſe is in the meeting-place, there three or more of the Juſtices in this Court, may as to this purpoſe unite them together, and one Regiſter may ſerve for them all.

Sect. 25. About repairing of Bridges and Highwaies adjacent.

They may here, if there be four, *Quorum unus*, preſent, hear and determine all nuſances in bridges in the highwaies, and of the highwaies 300 foot at the end of the Bridg, to the damage of the people, and make out ſuch proceſſe and pains upon Preſentments, for the ſpeedy amending thereof againſt them that ought to be charged, as the Judges of the Kings Bench uſe to do, or as they ſhall think fit to do, 22 *H.* 8. 5. For the better underſtanding whereof, theſe things are to be laid down

1. If the whole bridge be decayed it muſt be made again, *&c. Cook* 2. *par. Inſt.* 701.

2. This Statute extendeth not to private bridges, to Mils, or the like, but only to common bridges in the Kings highwaies, where every one hath or may have paſſage, and the Indictment muſt be, that the publike and common bridge being in the common highway, upon the river or courſe of water, *&c. Cook* 2. *par. Inſt.* 701.

3. This is to be underſtood of every Shire where be four Iuſtices of Peace, *Quorum unus*, and of every Franchiſe, City, or Borough where there be four

four Iuſtices of peace, *Quorum unus*, and where they keep a general Seſſions of the peace for ſuch Franchiſe, City, or Borough. But for want thereof the Iuſtices of the peace of the County ſhall enquire. But if any ſuch place be a County and have not ſuch Iuſtices, no other Iuſtices can do this, but it muſt be reformed according to the common law

4. The firſt branch extendeth only to ſuch caſes as where there is ſome body in certain known to be charged with the reparation.

5. Where it is not known what perſon or place ought to repair the bridges without the limits of Cities and Towns Corporate, ſhall be repaired by the inhabitants of the County, and ſuch as are within their limits; and if the bridg be part within the one ſide, and part within the other ſide, each party muſt repair that which is within their own limits, *Idem Stat.* 22 *H.* 8. 5. For clearing of which branch know this.

Firſt, That the perſons charged by the word Inhabitants are,

Inhabitants.

1. Corporations and bodies politick, and other perſons reſident in the place, or having lands there, *Quæ in proprijs manibus & Sumptibus poſſident & habent*, though they dwell and be elſewhere.

2. An infant that hath houſe or land by deſcent or purchaſe, and the husband of a *Feme Covert*.

3. A man that only dwelleth, and hath a perſonal reſidence there, but no eſtate, is not chargeable, for it muſt be ſuch an inhabitant as is diſtrainable. *Cook idem.*

Secondly, If it cannot be known by any proof, who ought to repair it, the grand Iury are to finde the decay, and to conclude, and further the Iurors

rors foreſaid preſent, that it is altogether unknown, what perſons, what lands or tenements, or bodies Politique, the ſame bridge, or any part thereof, of right, or ancient cuſtome ought to repair, or have uſed, and upon this, four Juſtices of peace are to proceed to aſſeſſe the County.

Rate for the High-waies.

The Juſticcs may here rate other Pariſhes not charged ſo much to the repair of the High-waies as 12d a Pound in the Year, to contribute to the help of a Pariſh, that by that Rate cannot repair their high-waies.

Money given to repair the Highwaies.

The Juſtices may here hear and determine all matters concerning any charitable gift to any high-waies, cawſwaies or Bridges, and make orders therein as Commiſſioners of charitable uſes may do, and further they may order damages, and ſet a Fine not exceeding 40lb upon the faulty, and cauſe this money to be emploied to the repair of the high-way.

Bylaws.

The Juſtices muſt here confirm Bylaws made in Pariſhes for the reforming of their Nuſances; And what they do ſet down in this Seſſions about the high-waies, according to the new Ordinance, is finall and definitive, and there lies no Appeal in it. *Ordinance* 31 of *Mar.* 1654.

Sect. 20.

About repairing a Church.

The Iuſtices may here order men that are bound over for not paying Rents to be paid for the repair of a Church, or for any Church-duties, to pay the money to the Churchwardens of the place. *Ord.* 9 *Feb.* 1647.

Fine for not repairing of an Iſle.

And here they may fine a Churchwarden or other perſon bound to repair any Iſle or Chancell 40 ſhillings, or above that is bound over to appear here for diſobeying the order of a Iuſtice of Peace out of the Seſſions. *The ſame Ordinance.*

They

They may here call to an account Treasurers for the Souldiers money by the *Ordinance* in *Decemb.* 1647. Taking an account.

The Iustices may here if they please, and for good reason, appoint a Cottage to be built, or one that is built to be continued as long as they please. *Stat.* 31 *Eliz. ch.* 11. Continuance of a cottage.

The Iustices here may put in execution the Law about challenges and duels. 1. They may imprison six Moneths without Bayl, and binde with Sureties to the good behaviour, for one year, such as send, take, or knowingly carry or conceal challenges to fight Duels. 2. They may banish during life such as fight Duels. 3. They may punish Officers and others that do not hinder them, that do conceal and nor discover them. 4. They may punish by Fine and Imprisonment, and giving damage, such as shall use disgraceful provoking words or gestures. *See* part. 1 *ch.* 26. Challenges. Fighting Duels.

They may here order such Ministers as are put in after the new Commissioners of the Counties have put out to repair their houses belonging to their Parsonages and Vicaridges, upon the New *Ord. Aug.* 29. 1654. But they cannot here give remedy for a debt, or for a Legacy, nor can they here give Alimony to a woman put away from her husband; But if she be or be like to be a charge to the Parish where they are, he may be by a high Rate forced to reason, and by this by-way (if she have need, and he be cruell to her,) the Iustices may here do somewhat for her.

CHAP. V.

Of their Power in their ſpeciall Seſſions.

THis ſpeciall Seſſions is of ſpeciall uſe for the ridding of the Goale, and other purpoſes; And the Iuſtices of Peace herein may take as much or as little buſineſſe upon them as they pleaſe, and are not bound to take upon them all the Service of the Commiſſion as they are at the Quarter Seſſions. And they have here (except in ſome ſpecial caſes before noted) the ſame power as they have at the Quarter Seſſions.

Sect. 1. The power and duty of the Iuſtices of peace in the ſpecial Seſſions, and what may be done there.

For firſt, all that a Juſtice of Peace may do out of Seſſions, he may much more do here in this Seſſions, as puniſh Ale-ſellers on 5 & 6 *Ed.* 6.21. Rogues upon 39 *Eliz.*4. and the like, See 1 *Jac.*6.

*Sect.*2. 2. In this Court they may hear and determine upon all the Articles within the Commiſſion of the peace, and that are offences at the common law. *Lamb. fol.* 624. as Felonies, Treſpaſſes, *&c.* See before, *Dalt.I.P.* 317.

Sect. 3. 3. In this Court the Iudges have power of Oyer and Terminer, of all offences which any Act of Parliament doth give them power in general, of enquiring, puniſhing or hearing, and determination, or determination only, without directions to any Seſſions. Of this ſort are the offences againſt the Statutes of 25 *H.* 8.13. about ſheep, 2 *H.* 6.14. about Gold-ſmiths, 8.*H.* 5.3. about Gilding, 17 *Ed.* 4.4. about Tyle, 13 *Rich.* 2.8. about Victuallers, 21 *H.* 6.19. about Souldiers, 23 *Eliz.*10. about killing of Pheſants, *&c.* 8. *Eliz.*

Sheep.
Goldſmith.
Gilding.
Tyle.
Victuallers.
Souldiers.
Pheſants.

Eliz. 3. about tranſportation of ſheep, 1 *H.* 8. 7. about Coroners, 8 *H.* 6. 5. 11. *H.* 7. 4. about weights and meaſures, 28 *H.* 8. 14. about wines, 42 *Ed.* 3. 9. 23 *H.* 6. 10. 11 *H.* 7. 15. 27 *Eliz.* 7. about Sheriffs, 1 *&* 2 *Ph. & Ma.* 5. about tranſportation of Corn, and many others.

Tranſportation of ſheep. Coroners. Weights and meaſures. Wine. Sheriffs. Corn.

4. In this Court they have power alſo in all caſes where the Statute doth uſe the word Seſſions indifferently, without adding the word General or Special, as upon the Statute of 2 & 3 *Ed.* 6. 15. about conſpiracy of victuallers, 5 & 6 *Ed.* 6. 4. about fighting in a Churchyard, 5 *Eliz.* 5. about eating of fleſh on fiſh-daies, *&c.* 1 *Jac.* 22. about Tanners, 4 *Jac.* 4. about Brewers. 7 *Ed.* 6. 5. about wines, 2 & 3 *Ph.* & *Ma.* 7. 31. *Eliz.* 12. about tolling for a Horſe in a Fair, *&c.* 1. *Eliz.* 17. about taking a fry of Fiſh, 19 *H.* 7. 11. about Hunting, 2 & 3 *Ed.* 6. 10. about deceitful Malt, moſt of the branches of 5 *Eliz.* 4. about Servants and Aparentices, 4 & 5 *Ph.* & *M.* about Souldiers, 2 *Ed.* 6. 6. 12 *Ed.* 4. 4. about Eſcheators, 5 *Eliz.* 21. about Fiſhing and Hunting, 1 *Jac.* 27. 23 *Eliz.* 10. about killing wilde Fowl, Hares, Pheſants, *&c.* 33 *H.* 8. 9. about unlawful games, 33 *H.* 8. 13. about ſhooting in Guns, 1 *Ed.* 4. 2. about certificate of Indictments by the Sheriff, about uſury, 37 *H.* 8. 9. 13 *Eliz* 8. *Cum multis aliis.*

Sect. 4.

Conſpiracy of Victuallers. Fighting in a Churchyard. Fiſh daies. Tanners. Brewers. Wines. Tolling for a Horſe. Fiſh. Hunting. Malt. Servants. Apprentices. Souldiers Eſcheators. Fiſhing. Hunting. Wilde Fowl. Hares. Pheſants. Unlawfull Games, Guns. Certificate by the Sheriff. Uſury.

5. So alſo it ſeems to be in ſuch caſes where the Statute appoints the thing to be done in open Seſſions, as in 5 *Eliz.* 4. about Servants that aſſault their Maſters, *&c.* 5 & 6 *Ed.* 6. 25. about Alehouſes, 31 *Eliz.* 7. about cottages 27 *Eliz.* 7. about Sheriffs, 39 *Eliz* 16. about Malt, 3 *Jac.* 13 about diſcharge of the good behaviour. Where it

Sect. 5.

Servants. Alehouſes. Cottages. Sheriffs. Malt. Diſcharge of the good behaviour.

is

Part II. Chap. 5. is open quarter Seſſions, it open did intend the quarter, then quarter were idle and to no purpoſe. And ſee 21 *Jac.* 22. the laſt cauſe, *Sed quere.* And ſee generall quarter Seſſions in 43 *Eliz.* 2. and many others.

Sect. 6. 6. In caſes where a Statute gives power of Oyer and Terminer of any offence in generall; this muſt be done at one of theſe Seſſions as is before, and cannot be done out of Seſſions. But where a Statute doth give a ſpeciall power, or power to do a ſpecial thing, as to make a rate or the like, and ſaith not where, there it may be done, as well out of any Seſſions, as within or at the Seſſions, See 22 *H.* 8. 5. *Coo.* 2. part. inſt. 703, 704.

Sect. 7. 7. In caſes where the Statute deſigneth the power to the Iuſtices, or appointeth the thing to be done in theſe words, at the quarter Seſſions, or generall quarter Seſſions, or generall Seſſions, or ordinary Seſſions, there the thing cannot be done at this Seſſions, but muſt be done at the quarter Seſſions, See before fol. 15. And ſo alſo it ſeems, if it be principall Seſſions, as 4 *H.* 7. 12. And the Iuſtices of peace in this Seſſions alſo have power in theſe particulars following.

Sect. 8. About making of Horſe-bread. 8. The Hoſtler or Inholder that maketh not horſebread ſufficient, and of due aſſize according to the price of corn, may be puniſhed as well here as in the quarter Seſſions; for the firſt offence by fine; Second, Impriſonment a moneth without Bayl; Third, Pillory without redemption; Fourth to be forejudged the keeping of an Inne. 21 *Ia.* 21

Sect. 9. About binding to the good behaviour. Diſturb a Preacher. 9. He that diſturbeth a Preacher is to be bound to the good behaviour by the 1 *M.* 3. for one year. And this may be as well at this as at the

the quarter Seſſions. And he that doth deſtroy a Fiſh pond, ſteal Fiſh, *&c.* is to be bound for ſeven years. And this (it ſeems) is moſt properly to be done by 5 *Eliz.* 21. *Dalt. I. P* 235. in a Seſſions of the Peace; And that may be done as well here as in the quarter Seſſions. Deſtroy Fiſh.

10. Any queſtion about Rogues may be determined at this Seſſions upon 39 *Eliz. Dalt. I. P.* 120. except it be a dangerous Rogue, for he is to be puniſhed at the Quarter Seſſions. 39 *Eli.* 4. *Sect.* 10. About Rogues.

11. In this Court alſo the Iudges may receive the Indictments and Preſentments of felony taken before the Sheriffs in their turns. And upon theſe they may proceed as upon Indictments originally brought before themſelves, 1 *Ed.* 4.2. as they may in the quarter Seſſions. *Sect.* 11. About receit of Indictment from the Sheriff Felony.

12. The Iuſtices of Peace of the County may according to their diſcretion ſet down the rates and prices of every Ale-Brewer and Beer-Brewer of the County ſhall have and take for every Barrell, Kilderkin, and Firkin of ale and beer: and he that takes more, forfeits ſix ſhillings a Barrell, three Shillings four pence a Kilderkin, two ſhillings a Firkin: And this Aſſeſſement, though perhaps *rigore juris* it may be done out of Seſſions, yet it ſeems more proper to be done at a Seſſions. 23 *H.* 8. 4. *Sect.* 12. About the prices of Ale and Beer.

13. It ſeems Ale-houſes put down by two Iuſtices cannot be allowed again by two others, nor otherwiſe but in this or the Quarter Seſſions: And there they may be licenſed *de novo*. And then they cannot be ſuppreſſed but at their Seſſions again, where they were licenſed, or the Quarter Seſſions, 5 & 6. *Ed.* 6. 25. *Dalt. I. P.* f. 35. *Sect.* 13. About Ale-houſes ſuppreſſed. Licenced de novo.

15. This

Part II. Chap. 5.

Sect. 15. About Recognizances of the peace of good behaviour, and discharge thereof.

15. This Surety may be taken here as it may be by Iustiees out of any Sessions, but the proper place of discharging such as are bound to the peace or good behaviour, is in the Sessions of the peace. And the Iustices cannot well do it out of the Sessions. And this is also the proper place to get a discharge of other Recognizances, which things may be done as well here as in the quarter Sessions.

Sect. 16. About the taking of a presentment.

16. In this Court the Iudges may take the presentment of searchers of Tyle, of defaults they finde in making of tyle, upon 17 *Ed.* 4. 4. as well as in the quarter Sessions.

Sect. 17. About the discharge of an Apprentice.

17. The discharge of an Apprenice from his Apprentiship may be at this Sessions by four Iustices of peace, *Quorum unus* under hand and Seal by 5 *Eliz.* 4. And yet by the words of the Statutes though one Iustice of peace may allow the cause of putting away or departing of a Servant, yet the proof of the sufficiency, or insufficiency, of the cause for which the Master may put away his servant before the end of his Term, or at the end of his Term without warning, must be at the Sessions, and therefore it seemeth reasonable this offence should not be tried elsewhere. And yet the punishment of him that doth assault his Master, *&c.* if it require more then a years imprisonment, may be here as well as in the quarter Sessions. And almost all the offences against that Statute are punishable as well here as in the quarter Sessions. 5 *Eliz.* 4.

Putting away a servant.

About a servant abusing his Master.

Sect. 18. About the concealment of an Inquest.

18. In this Court as in the quarter Sessions, they may by their discretion upon complaint and by Bill, take and charge a second Iury, whereof every one must have 40 *s.* in Lands yearly to enquire

quire of the concealments of other Inqueſts taken before them, within or without Franchiſes, and before others of ſuch offences as are enquirable and preſentable before Iuſtices of the Peace. And being found to be done within a year before, they are to amerce them, according to their diſcretion, 3 *H.*7.1. Part II. Chap. 5.

19. It ſeems they may here as well as at the quarter Seſſions, give remedy to the party grieved againſt a Witneſſe, that being ſerved to appear in any Court of Record, and doth make default by 5 *Eliz.* 9. *Sed Quære.* If in any Court of Record do not intend the four Courts at *Weſtminſter* only, as uſually by theſe words it is intended. *Cook Rep.* *Sect.* 19. About a Witneſſe.

20. In this Court the Judges may puniſh the eating of fleſh upon Fiſhdaies without Licenſe, the not diſcloſing of it to an officer, the not having of a diſh of Seafiſh with the diſh of fleſh by him that is licenſed, and the offences of buying of Herring of an Alien, tranſportation of things in an aliens boat, and the importation of Wines from *France* in Aliens Ships againſt 5 *Eliz.* 5. as well as in the Quarter Seſſions. *Sect.* 20. About fiſh.

21. If a Recognizance be forfeit by default of appearance, or otherwiſe the Juſtices of peace may and muſt from this Court or the Quarter Seſſions where it is, certifie the ſame with the cauſe of forfeiture into ſome of the Courts at *Weſtminſter*, that from thence proceſs may go out againſt the party, *Dalt. Juſt. P.* 213. And this Court may do this alſo. A Recognizance muſt be certified though it be releaſed. *Sect.* 21. About a Certificate Recognizance forfeit.

22. The Juſtices of Peace may here in this Court, and in the quarter Seſſions, both require *Sect.* 22. About Officers.

Part II. Chap. 5. of all the miniſteriall Officers that belong to the Court, as Sheriff, Clerk of the Peace, Coroners, Conſtables, and Bailiffs of Hundreds, that attendance and ſervice they owe, and puniſh their neglect, 27 *H.* 5. 8. *Young* 12. 14. *R.* 2. 5.

And if Sheriffs or their under Officers return Iurors without their additions, the puniſhment of them may be hereupon, 27 *Eliz.* 7.

Sect. 23. About reſtitution of ſtoln goods.

23. Reſtitution of ſtolen goods to him by whoſe induſtry the Felon is attainted, may be made by the Iuſtices at this Seſſions, as well as at the quarter Seſſions; for a Felon may be attainted before them at this Seſſions as well as at the other, 21 *H.* 8. 11. *Cook ſecond part of his Inſtit. fol.* 714. And though the goods have been ſold in market overt, yet reſtitution ſhall be made; and this reſtitution it ſeems the Iuſtices muſt make without enquiry of the freſh ſuit.

Sect. 24. About cloth.

24. This Court as well as the quarter-Seſſions, may (it ſeems) hear and determine the offences of Clothiers in not ſetting their Seal to their cloth, ſelling or putting to ſale the cloth that ſhrinks to ſo much in wetting, by falſe dying of wool or cloth, by ſelling by falſe meaſures, uſing iron Cards and Pickards, preſſing cloth to be uſed here in this Realm, or *Ireland*, not marking the cloth with the letter E crowned, by 3 & 4 *Ed.* 2. So the offences of overſeers of cloth in not taking upon them, or in not executing their Office, *the ſame.*

So the deceits uſed in the ſtretching and otherwiſe abuſing of linnen cloth, may be puniſhed in this Court, or the Quarter Seſſions upon 1 *Eliz.* 12.

Sect. 25. About Viſory.

25. The taking of more then ten in the one Hun-

Hundred, or aſſiſting in ſuch a Contract, upon 37 *H.*8.& 13 *Eliz.* 8. is puniſhable in this as well as in the quarter Seſſions. But the taking above eight, and under ten in the hundred, or the procuring of ſuch a contract upon 21 *Jac.* 17. it ſeems is not puniſhable in either of theſe Courts, but elſewhere.

26. If any perſons (except ſpiritual perſons) ſhall at one time, have of his own, or to his own uſe to keep upon his own or others Farmes, except it be upon his own inheritance, or that which one hath in Joynture by the courteſie, or in Dower above two thouſand ſheep (120 accounted to the hundred) beſides Lambs (to be reckoned of a year old and above, from the time of the fall to midſummer following) except ſheep for the maintenance of his houſe, ſheep by Executorſhip, Mariage, or given by will to a child within age, he forfeits 3 s 4 d. a ſheep. And if any take to Farme, or take an eſtate for life, years, or at will, by Indenture, or Copy, any more then two houſes, holds, and Tenements of Husbandry, whereunto any Lands are belonging in any place whatſoever, nor may any man occupy ſuch, except he live in the Pariſh where they are, *Sub pœna* 3 s. 4 d. a week, ſo long as he ſhall occupy it, theſe offences may be heard and determined in this Court as well as in the Quarter Seſſions, 25 *H.* 8.13. *Sect.* 26. About keeping of ſheep or Farms.

27. In this Court as well as in the Quarter Seſſions, the erecting and continuance of cottages, receipt, and keeping of Inmates may be puniſhed, 31 *Eliz.* 7. For the better underſtanding of which Law theſe things are to be known. 1. If one convert that building that before this Sta- *Sect.* 27. About Cottages and Inmates.

Part II. Chap. 5.

tute was one houſe into two houſes, theſe are two cottages, and puniſhable by this Statute, for this is a continuing of Cottages. 2. If one build an old houſe upon a new Foundation in the ſame quantity that the old was, this is not puniſhable. 3. If one build two diſtinct cottages together, the one upon the old foundation, the other upon the new; that which is built upon the old foundation is not puniſhable, but that which is built upon the new is. 4. If one build a new houſe upon an old and new foundation together, ſo that the entire houſe doth ſtand upon both together, this is a cottage puniſhable by this Statute, *Trin.* 8. *Car B. R.* 5. The building of a fair houſe in the Country by a rich man, not having four acres of Land to it, is a cottage *per Juſt. Jones Trin.* 13 *Car. in B. R.* But the placing of the poor is not in this Statute, *Reſolved of the Judges, Temp. Car. Regis.* Cottages in a City, Borough, or Market-Town, or uſed for workmen in a minerall, or in a Quarry of Cole, Stone, Slate, or for making of Brick, Lime, or Cole within a mile of the work, or within a mile of the Sea: for Seamen to furniſh Ships; or in a Park or Forreſt for the Keeper of the game, or for a Shepheard or herdman to keep the Sheep or Cattel of the Town, or for a poor impotent perſon, or ſet, or kept up by order of the Quarter Seſſions, or built by their order and the Lords conſent are excepted. 31 *Eliz.* 6.

Sect. 28. About victuallers and rates of ſelling commodities.

28. If any Butcher, Fiſhmonger, Hoſtler, Baker, Brewer, or the like tradeſman, ſell their proviſion at unreaſonable prices, having reſpect to the prices in the places adjoyning, and the place from whence the commodity is fetched, he may be

be fined in this Court, or in the quarter Seſſions for it to the double value, 13 *R.*2.8. 23 *Ed.*3.6 And it ſeems the Iuſtices may ſet down rates for the ſale of commodities for proviſion, yet *See* 25 *H.*8.2. Part II. Chap.5.

The prices of wine may be aſſeſſed by the Keepers of the Liberties Great Officer, and he that ſels for more, may be puniſhed by the 40.s. penalty here, 28*H.*8.14. So the Iuſtices may here ſet down the rates of Veſſels of Ale and Beer, *See before*, and 23 *H.*8.4. *Sect.* 29. Wine. Aſſeſſements of prices.

30. If the occupiers of Land in the Country do not their endeavour to deſtroy choughs, crows, and rooks, or refuſe to pay them that take them, they may be puniſhed here upon 24 *H.* 8.10. *Sect.* 30. About deſtroying of Crows. &c.

31. The tranſportation of any Corn or Malt, butter, cheeſe, herring, or wood in ſhipping beyond Sea without licenſe, or the carrying of ſuch things to ſuch ſhipping to be tranſported, or the exceeding of a Licenſe herein, are puniſhable in this Court upon 1 & 2 *Ph.* & *Ma.*3. *Sect.* 31. About tranſportation. Licenſe.

32. The delivery or receiving of live ſheep in any Ship to be tranſported out of the Realm, firſt offence loſſe of goods, and impriſonment a year without Bayl, and loſſe of his left hand, ſecond offence Felony, this may be here executed at this Seſſions, by 8 *Eliz.*3.

In this Court as well as in the quarter Seſſions the malicious ſtriking of any perſon with any weapon in any Church or Churchyard, or the drawing of any weapon in that place, with intent ſo to do, may be puniſhed with the cutting off of one ear, and if he have no ear, with burning, upon 5 & 6. *Ed.*6.4. *Sect.* 32. Abont fighting in the Church, &c.

Part II. Chap. 5. *Sect.* 33. About Suits Inter Partes.

33. In ſome ſpeciall caſes they have power here to hear Suits between party and party; as on the Statute of 3 *H.* 8. for levying of money for Knights of the Parliament, and the Statute of Labourers, 5 *Eliz.* 4. and for taking Fiſh, Deer, and Hawks, 5 *Eliz.* 21. which may be at any Seſſions of the Peace.

It ſeems in all caſes where direction and power is given by any Statute to ſue for a penalty in any Court of Record within this Realm, as in any of the Keepers of the Liberties Courts, as in 1 *Ia.* 17. 18. 19. 24. 20. and divers others, it may be ſued here; *Contra*, if it be in any of their Courts of Record at *Weſtminſter*, as 1 *Jac.* 21. 10. 21. *H.* 8. 5. and many others.

Sect. 34. About making of Orders.

34. At this Seſſions as well as at the quarter Seſſions the Court may make ſuch Orders as they have been uſed to make according to Law, and they may annex a penalty, but how they may recover it, *quære*; for it ſeems there is no law for it, yet doubtleſſe for any affront or contempt *in facie Curiæ* or offence in an officer of the Court, they may fine or impriſon, for this power every Court of Record hath. And upon other orders made conſonant to Law and reaſon, perhaps they may puniſh diſobedience, eſpecially if it be joyned with contempt, by Indictment, binding to the good behaviour, or Attachment, *Quære* of theſe things, *Cook* 8. 61, 49.

Fine for contempt in Facie Curiæ. Commitment.

Indictment. Good behaviour

Sect. 35. About the conſpiracy of Victuallers or Workmen.

35. If any Butcher, Brewer, Baker, Poulterer, Cook, Coſtermonger, or Fruiterer, conſpire not to ſell their victuals but at certain prices. Or Labourers or Artificers, conſpire not to work but at ſuch rates, or not to finiſh what another hath begun or to do but a certain work a day, or to work but

but at cerain hours, 1 offence 10l. or if not paid within ſix daies, twenty daies impriſonment with bread and water only; 2 offence 20l. or not paid within ſix daies Pillory; 3 offence 40 pounds, and not paid within ſix daies, Pillory and loſſe of one of his ears, and this may be executed in this Court as well as in the quarter Seſſions, 2 & 3 *Ed.6.15.*

Sect.36. About Wines.

36. The offence in ſelling Wine againſt the Statute of 7 *Ed.6.5.* about Wines, may be puniſhed here as well as at the quarter Seſſions.

Sect.37. About horſes ſold in Fairs. Malt.

37. Any default in the owners or Governours of Fairs, keepers of the Toll-book contrary to 2. & 3. *Ph.* & *Ma.* or 31 *Eliz.*12 is determinable here as it is in the Quarter Seſſions. So any default againſt the Statutes made for the ordering of Malt-making, 2 *Ed.6.*10.

Sect.38. What may be done out of one of the Seſſions.

All thoſe things which by any Act of Parliament are appointed to be done at any Seſſions, and not elſewhere, can be done at no other place or time, and of this nature are all theſe things before and after particularly named. Such as keep Greyhounds, *&c.* and againſt 13 R.2.13. Such as publiſh falſe Prophecies, againſt 5 *Eliz.*15. Such as tranſport corn, againſt 1 & 2. *Ph.* & *Ma.* 5. Such as offend againſt moſt of the branches of 5 *El.* 5. about the conſtitution of the Navy. And ſuch as ſell by unlawful weights and meaſures againſt 11 *H.*7.4. All theſe muſt be puniſhed in one of theſe Seſſions.

Chap. VI.

The Charge for the Quarter Sessions.

Sect. 1. THE Articles wherewith you are to be charged are many, for at this Seſſions all things ought to be given in charge, that doe lie within the authority of the Iuſtices to be determined. Time will not ſerve to tell you all, therefore that we may make the beſt uſe and yet keep our ſelves within the bounds of that time we have allotted to us, we ſhall obſerve this method. 1. We ſhall wholly paſſe by thoſe particulars which are in reſpect of the preſent time, place, or condition altogether unuſefull. 2. We ſhall only touch upon, and lightly run over ſuch things as are leſſe ſerviceable and uſefull. 3. And ſtay only upon the things that are moſt pertinent and behoovefull. In the which alſo we ſhall endeavour to be as brief as it is poſſible to be in ſo large a Tract. And therefore we ſhall only name the Law, and offence againſt Law, without amplification or expoſition, and recite only that part of a Statute which makes the offence, and no other part thereof. We ſhall winde up together, and reduce to one head as many things as we may. 3. We ſhall purpoſely pretermit the rehearſall of the puniſhments of each offence, for that they do rather appertain to the Iuſtices then to the Iurors. And when we have done all, we ſhall be forced to charge your memory with more then it can well carry away.

The charge to be given doth conſiſt of two parts, Laws Eccleſiaſtical for the peace of the Church,

Church, and Laws civill or temporall for the Peace of the Common-weal, and in anſwer to this, the offences, which are the breaches of theſe Laws, are capable of the like diviſion. But they do admit divers other diviſions. For theſe offences are reducible to divers heads, ſome of them are given in charge here, rather for inſtruction or preparation, then for execution. Some of them do concern ſpiritual or Eccleſiaſticall matters, others do concern civil matters. Some of them concern crimes that are more penal, and of a higher nature, others of a lower nature, and leſſe penall. Some of them are againſt the Common, ſome againſt the Statute Laws, ſome of them are publique and general, and concern the Common-wealth, ſome private perſons. And amongſt theſe alſo which concern the Common-wealth, ſome concern the Peace, ſome the Iuſtice, ſome the ſtrength, ſome the flouriſhing eſtate, and ſome the eaſe of the Common-wealth. Again, ſome of them concern matter of force and violence, others matter of fraud and deceit; alſo among them which concern private and particular perſons, ſome concern the body, ſome the body and goods together, ſome the goods only, ſome the name. Theſe which concern the body are either in taking away the life thereof or abuſing it without death. Part II. Chap. 6.

We ſhall firſt of all give you the things that do concern the Eccleſiaſtical or Spiritual matters. And of theſe, firſt ſuch as wherein this Court doth take upon it no further conuſance, but only to enquire and diſcover, and ſo (if it have ſo much power) to prepare for other Courts who have power to proceed further therein. And we ſhall name in the firſt place.

Part II. Chap. 6. *Sect.* 4.

Agnus Dei. Crosses.

If any have brought from the Bishop of *Rome* or any other authorised by him, any tokens or things called *Agnus Dei*, crosses, pictures, beads, or such like superstitious things, and hath offered or delivered the same to any to use or wear, and if any to such intent have taken and received the same, and not apprehended, nor within 3 daies discloſed him to the Ordinary or some Iustice of Peace, or within one day delivered the thing to some Iustice of peace, this is a *Premunire*.

Præmunire.

13 Eliz. 2.

Sending children 100 l. 1 Jac. 4.3

If any have sent their children or any under their government to any Popish Seminary beyond Sea to be instructed in the Popish Religion, or to professe the same.

Popish Books 40. s. Books to be burned. 3 Jac. 5.

If any person have brought from beyond Seas, printed, sold, or bought any Popish books in any language whatsoever, or any superstitious books in English, they are to be burned.

All these we are to enquire of only, and now we shall name to you such offences in Ecclesiasticall matters wherein this Court hath a compleat conusance, (that is) power not only of enquiry, but also of *Oyer* and *Terminer*. And the first of these is Heresie and Blasphemy.

Sect. 5. Heresie. Ordinance May 2. 1648.

If any do willfully and obstinately maintain and publish by preaching, printing, writing, or teaching, that there is no God, or that he is not eternal, or the like horrible blasphemy or heresie, this is felony. If the error be less, as if the opinion be that all men shall be saved, or that man hath by nature freewill to turn to God, or the like, for this the punishment is lesse, he is to renounce his errour according to the order of two Justices of the Peace, or else stand committed to prison till he give bond to them, with two subsidie men sure-

ſureties, never to offend in that kinde again.

If any ſuperſtitious monuments or pictures be coutinued in any Church, Chappel, or open place.

It any perſon who is a Recuſant, convict, or his wife a Recuſant convict, have Altars, Pixes, Beads, Pictures, Crucifixes, or other reliques of Popery, they are (if of ſmall value) to be burnt, or elſe to be defaced.

If any perſon have ſaid or ſung Maſſe, he is for this to loſe two hundred marks, and be impriſoned one year. If any have willingly heard Maſſe, he is for this to loſe an hundred pound, and be impriſoned one year.

Or if there be any ſuch who do not once every year receive the Sacrament of the Lords Supper according to the Statute 3 *Jac.* Their names and the names of all their children and ſervants muſt be preſented.

Thoſe that preſent them are to have a reward of forty ſhillings out of their goods and Lands.

If any do willingly maintain, retain, relieve, or keep any ſuch Recuſant in his houſe.

If any retain ſuch an one for his ſervant.

If any married woman receive the Sacrament as aforeſaid.

If any Popiſh Recuſant marry, and baptize their children otherwiſe then after the cuſtom of the Church.

If any do by word or deed maliciouſly and purpoſely diſturb a Miniſter in the Sermon time, or if any ſhall reſcue ſuch an offender.

If any within three moneths laſt paſt have depraved or deſpiſed the bleſſed Sacrament of the body and bloud of Chriſt.

If the Conſtables or other Officers of every pariſh

Superſtitious monuments. *Sect.* 6.

3 Ioc. 4.

23 El. 2. and yet ſome take theſe two offences to be only inquirable not determinable.

Quære ſee 29 Eliz. 2.

Recuſants 1 Eliz. 10. l. a moneth, and two parts of their Land.

20. l. the firſt year. 40. l. the ſecond year. 60. l. every year after

23 Eliz. 1.

3 Iac. 1.

29 Eliz. 6. 10 l. a moneth

3 Iac. 4.

10. l. by the husband or the third part of his Land. 3 Jac. 5.

Good behaviour and three a moneths impriſonment.

1 Mar. 3 Seſſ. 2 Impar. 3 moneths. Impriſoment. Fine 1 Ed. 6. 1.

Directory. Purſ. 5. 5.

Part II. Chap. 6.

40 s. a time.

1 Offence 5 l. 2,10.l.3. Imprisonment a yeare without bayl. 5.l. or above under 50.l.

Sabbath day 3s 4d apeece, or sit in the Stocks 4 hours, for want of distresse, which is to be sold, the overplus restored.

1 Iac. 3. s. 4d. and the value of the things

1 Iac. 2s. The goods forfeit by Ordinance of Parliament. 20s. 3 Carl. 20s for every offence 6s 8d. 3 Car. 1 ss. 0 d. of Parl. or sit in the stocks three hours. If above 14 years old 5 s.

parish have not within a week after the sending of the Book called *The Directory for Worship*, delivered the same to the Minister. 2. If the Minister have not read it openly amongst his people the next Lords Day after the receipt of it before morning praier. 3. If the Minister in his Ministration have not observed and pursued that order in all things. 4. If the Minister do still use the Book of Common-praier in publike or private worship. 5. If any Minister say or do any thing in derogation of this new Form of worship prescribed. All that are punished for these things, must be at the next or second generall Sessions after the thing done. But it is much doubted whether this Ordinance may be put in execution by Iustices of Peace in their quarter Sessions. Therfore Iustices may forbear to give it in charge.

If any do not sanctifie the Lords day in the practise of the duties of piety and charity, but profane it. 2. If there have been Assemblies or meetings of any people for any sport or pastimes out of their own parishes, or any Bear-batings, Bull-baitings, enterludes, common plays, or other unlawful exercises in their own parishes on that day within one moneth last past. 3. If any Shoemaker have shewed with intent to put to Sale any Shoes, boots, slippers, or the like on this day. 4. If any do cry, shew or put to sale, any wares, fruit goods or chattels on that day. 5. If any Carriers Waggoners, Wainmen, or Drovers have travelled with Waggons, Cart or Cattell on that day within six moneths last past. 6. Or any Butcher have killed or sold any victuals on that day within this time. 7. Or if any do carry any other burthens or do any worldly work on that day.

8. Or

8. Or if any uſe or keep, or be preſent at any wreſtlings, bowlings, ſhootings or ringers for pleaſure, or any wakes, or the like paſtime, *&c.* 9. If any man without good cauſe travell on this day. 10. If any owner of a Market keep it on this day.

If under, his Maſter or Father 12d. to 5. or in ſtocks 3 hours. 1 Car. 1. 27. H. 6. 5.

If any have prophanely ſworn or curſt; If he be under twelve years old, he is to be whipped by the Parents or Conſtable.

Swearing 12 d. or in the ſtocks 3. hours. 11 Iac. 20.

If any one hath committed wilful perjury, or procured, or ſuborned another to commit wilful perjury in any Court of Record, court Baron, or hundred court.

Perjury 20 l. and 6. moneths imprisonment, 4 l. or 6. moneths impriſonment. 5 El: 2. 9. 3 Iac. 21. Fine. Impriſonment.

See for profanation of Gods name in plays, *&c.*

If any Iury charged to enquire of any robbery or felony, ſpare and conceal it out of favor and partiality, *Statute of Wincheſter*, 13 *Ed.* 1. 1.

If any perſon have uſed Invocation or conjuration of evil ſpirits for any cauſe, or any witchcraft, enchantment or charm, whereby any perſon ſhall be killed, or any part of him waſted, or lamed, this is felony. If any uſe any Witchcraft, or charms to finde out hidden Treaſures, to tell where loſt goods ſhall be found, or attempt thereby to provoke unlawful love, or to deſtroy or hurt any mans body, or wherby any mans cattell be deſtroied or impaired, to doe this the ſecond time is felony.

Witchcraft. Felony. 1 Iac. 12. 1 offence one years impriſonment without bayl, and to ſtand in the Pillory ſix hours every quarter of the year, the ſecond offence Felony.

If any do by ſpeech or writing divulge, that the eating of fleſh upon daies now uſually obſerved, as Fiſhdaies, is of neceſſity for ſalvation of ſouls, or is the ſervice of God, otherwiſe then as other politick Laws.

Opinion preached about eating of fleſh. 5 El: 5.

Theſe are the offences about ſpiritual matters, wherein this Court hath a compleat conuſance and Iuriſdiction. The

Part II. Chap. 6. The offences that follow in the next place are concerning civiil matters, And of these, first of such as are more penall, mortal, and of a higher nature, then of others that are of a lower nature, and venial; of the first sort are all Felonies. For as touching high Treason, and some Felonies (usually given in charge in this Court) it must be to this end, either for instruction only, or for information, and to make preparation for some other Iudges and Courts, or else as it is a felony (for every Treason at common Law is felony, and more) and so only enquirable here. Now high Treason being the greatest offence, it is not amisse to shew you how many waies it may be committed, and to name those felonies which are only enquirable here.

Sect. 7. High Treason. The offence of High Treason may now be committed by any of these following things. 1. To print, write, or openly to declare that the present Government is tyrannicall, usurped, or unlawful: Or 2. To plot, contrive, or endeavour to stir up or raise force against the present Government, or for the subversion and alteration of the same, and to declare the same by any open deed. 3. And to imagine or compasse the death of the Lord Protector. 4. If any but Souldiers shall endeavour to stir up any mutitny in the Army, or to withdraw the Souldiers thereof from their obedience to their Superiour Officers, or from the present Government. 5. To procure, invite, aid, or assist any forreigners to invade *England* or *Ireland*, or raise force against the present Government, and declare it by open deed, or counterfeit the money of the Common-wealth, and some other things are made Treason

Treaſon by a New Ordinance, *January* 1653. 7. To adhere to any Forces raiſed by the Enemies of the Common-wealth. 8. To counterfeit the Great Seal of *England* for the time being. But for any of theſe no man may be queſtioned above a Year after the offence done. Part II. Chap. 6.

Theſe Offences are not puniſhable in this Court.

If any Perſon within one Year laſt paſt, have by word or deed maintained and defended any forreign power, Spirituall or Eccleſiaſticall of any forreign Prince uſurped within this Kingdom: Or if any have counſelled, abetted, or given aid to any ſuch perſon in ſo doing. This in the third offence is High Treaſon. Extolling forreign power. 1. Forfeit goods 2. Præmunire. High Treaſon. 1 Eliz. 1. Præmunire. High Treaſon. 5 Eliz. 1.

If any within the time aforeſaid hath by word or deed extolled, defended, or maintained the authority and juriſdiction of the Biſhop of *Rome* uſurped in this Realm, or attributed any ſuch authority to that See, or if any have abetted, procured, counſelled or aided any ſuch perſon. This is high Treaſon being done the ſecond time, the firſt being but a *præmunire*.

If any have uſed or put in any Bull or ſuch like Inſtrument gotten from the Biſhop of *Rome*, or any claiming authority under him, or have publiſhed any ſuch, or have taken upon him to abſolve or reconcile any thereby, or if any have received ſuch abſolution, or if any have procured, abetted, or counſelled any ſuch offendor. 1 Præmunire. 2 High Treaſon. 1 Eliz. 1. 5. Eli. 4. Offering of Bulls. High Treaſon.

Or if any have aided, maintained, or comfort-

ed

Part II. Chap. 6.

ed such after the said offence, This is a *Præmunire.*

If any Jesuite, Seminary Priest, or any other Deacon or Priest ordained or professed by any authority or Iurisdiction from the Sea of *Rome*, be come, or do remain in this Realm, this is high Treason.

1 Iac. ch. 4. Iesuites, Seminaries. Treason, 3, Eliz, 1.

Or if any give, send, or contribute any money or relief to any such for the maintenance of any College or Seminary of such beyond the Seas.

Premunire,

Or if any knowing any such to abide, do not discover it within twelve daies after his knowledge to some Iustice of Peace or higher Officer.

Fine. Imprisonment

All these offences are punishable in other Courts.

To imbezle or raze any Record is Felony, 8 *H. 6. ch.* 12. So to forge, or cause, or agree to be forged any deed or court-roll, or to publish any such, knowing the same to be false, the second time is Felony, 5 *Eliz. ch.* 14.

And these Felonies are punishable by the Iudges of other Courts, but not in this Court.

We shall now speak to such offences as whereof this Court hath compleat conusance, *i.* power to hear and end. And first of Felonies.

Felonies (we must know) are either simple or relative, by common Law, or by Statute Law; and some are by both. And these again are either (as we have touched already) publike. And those do either concern the Common-wealth either in Treason, as in the cases before, or in Felony only, as by carrying away our men or arms to serve other Princes, or by rebellious Assemblies, Transportation, and the like.

Or

Or elſe they are private. And thoſe be either ſuch as do touch the body only, or the body and goods together. Or the goods only, That which doth concern the body only, which is either by taking away the life thereof, which is called homicide, or by abuſing it without death, as by cutting out the tongue, buggery, Rape, and the like. Homicide is either of ones ſelf or another, that of another is either voluntary or involuntary. That which is voluntary is either diſpuniſhable by Law when it is commanded for Iuſtice ſake, or allowed or excuſed for other cauſes which be no Felonies; Or it is puniſhable. And that whether it be upon malice prepenſed, as murder, or ſudden adventure, as by a ſuddain falling out and in hot bloud, without any premeditate malice, or in a mans own defence, or by meer chance, as chance-medley. Other diviſions by others are made of theſe things. Part II. Chap. 6.

We ſhall begin firſt with thoſe Felonies that doe concern the Common-wealth, ſome of which we have ſpoken to before, And then come to them which concern private perſons. Sect. 8.

If a Goaler uſe his priſoner ſo hardly that thereby he compel his priſoner to be an approver, to charge another to be a partaker with him in the felony, this is felony. Goaler compelling a priſoner to approve. 14 Ed. 3. 9.

To offer to ſmite a Judge in the doing of his office is petit Treaſon, and the higheſt degree of Felony. Petit Treaſon.

If any had conſpired to deſtroy any of the Kings Councell or principal Officers, though he did not effect it, this was felony. Conſpiracy againſt the Kings councell. 3 H. 7. 11.

If one acknowledge a Fine, Recovery, Deed inrolled, Statute, recognizance, bail or judgement Acknowledgemeat of a Fine, &c. 23 Hen. 29.

Part II. Chap. 6.

in the name of another, he being not privy, nor consenting thereunto, this is felony.

Multiplication of gold, &c. 5 H. 4. 4.

To practise the art of multiplication of gold or silver is felony.

Congregating of Masons. 3 H. 6. 1.

If any shall cause Masons to congregate together in chapters and Assemblies, and there to confederate to subvert the Laws, this is felony.

Souldiers departing. 7 H. 7. 2. 3 M. 8 5. 18 H. 6. 17. 5 Eliz. 5

If any Souldiers having taken presse-money do not goe with their Captain, or being in service depart without license, or any Mariners, or Gunners take press-money, and depart without license, either of these are felony.

Embezeling habiliments for war,

If any Souldier imbezle or convey away any Ordinance, armour, shot, powder, or other habiliments for warre, or victuals provided for souldiers, to the value of 20. s. though at severall times, or have sold or conveyed any horse into forreign parts without license, every of these offences are felony. So if any Souldier do counterfeit a Testimoniall from his Captain.

31 Eliz. 4. 39 Eliz. 17.

Transportation of Sheep. 8 Eliz. 5. Plague.

To transport or ship away sheep out of the Realm the second time is felony.

If one infected with the Plague, and having the sore running upon him, and being commanded by an Officer to keep his house, doth afterwards go abroad, and converse with company, this is felony.

1 Iac. 31.

Egyptians.

If any person of the age of fourteen years or above, shall call himself an Egyptian, or shall be in the company of such an one, or shall disguise himself in apparell, speech, or otherwise, like such an one, or shall be or continue in *England* one moneth at one or several times, this is felony.

1 & 2 Ph. & M. 4.

Willingly to harbour any Iesuite or Popish Priest

Prieſt born here and at liberty, is felony.

If any incorrigible Rogue baniſhed the Realm return without licenſe, or being burnt in the ſhoulder and ſent home, do afterwards wander abroad, each of theſe is felony.

Ieſuites. Rogues. 39 Eliz. 4. 1 Iac. 7.

If any Captain or Lieutenant had ſerved any forreign Prince before he had given bond, not to conſpire againſt the King, this was felony, 3 *Iac.* 4.

If one be in priſon or only arreſted for felony or ſuſpicion of felony, and he break the priſon and eſcape, this is felony.

Breach of priſon. 4 Ed. 2. 1 H. 7. 6. 1 Ed. 3. 17. 23 H. 8. 11.

If any idle Souldiers or Mariners wander about idlely, and will not ſettle to an honeſt courſe of life, or go to their place of birth, or laſt dwelling, this is felony, 39 *Eliz.* 17. Or if he goe without, or counterfeit a teſtimonial of a Iuſtice of Peace.

Souldiers and Mariners. 39 Eliz. 17.

There are divers other felonies touching hawks and hunting in Forreſts, and other matters of little uſe now, for which cauſe I ſhall omit them.

34 H. 3. 22: 1 H. 7. 7.

Now to felonies that concern private perſons, *Sect.* 9. and firſt of Homicide.

If a man kill himſelf he is ſaid to be a *Felo de ſe*, and this is ſuch an offence as for which if he be in his right minde when he doth it, he ſhall forfeit all his goods and chattels.

FELO DE SE.

The offence of killing another man is greater or leſſe, according to circumſtances. For if a man or maid kill his or her Maſter or Miſtreſſe, a ſon or daughter kill his or her father or mother, or a woman kill her husband, or a Clerk kill his Ordinary, this is the higheſt degree of theſe murthers, and is ealled Petit Treaſon, which offence alſo may be committed by other acts.

Petit Treaſon. Loſſe of all.

Part II. Chap. 6.

If the killing be with any malice prepenſed, or without any provocation, or by poyſoning, or to kill an Officer in the execution of his office, in which caſes there is malice preſumed to be, this is a high degree, and is called Murder, or willfull murder.

Murder. The like.

Man-ſlaughter. The like.

But if the killing be upon a ſudden falling out and in heat of bloud, without any premeditate malice, this is an offence of a lower nature, and is called man-ſlaughter.

Se defendendo. Loſſe of goods. Pardon for life.

And if one be aſſaulted by another, and fly as far as he can, and at laſt being followed ſo hard that he cannot avoid it, but muſt in his own defence, and by inevitable neceſſity, kill or be killed, and then he kill the purſuer, this is an offence of a lower nature, and leſſe puniſhment then the laſt. And ſo it is where one doth kill another by miſchance, and againſt his will, by ſhooting an arrow, or the like, this is ſaid to be *per infortunium*, or chance-medley, and of the ſame nature with the laſt.

Chance medley. The like.

Baſtard.

If any woman be delivered of a baſtard childe, and born alive, that endeavoureth privately by drowning, ſecret burning, or other way by her ſelf or other, to conceal the death thereof, that it may not come to light, whether it were born alive or dead, ſhe is to ſuffer as a murderer, except ſhe can prove by one witnes that the childe was born dead

21 Iac 27. Killing juſtifiable or excuſable.

But here ere we go further, we muſt tell you, that there is a killing which is juſtifiable, or at leaſt excuſable. For if a man ſet upon me to rob me by the high way, or to rob, burn, or burglarily to break my houſe, I may kill him. So if I be a Souldier in a lawful Warre, I may kill as many men as I can. If I be a Iudge, I may give

Him that would kill or rob me in war. In doing Iuſtice

ſen-

ſentence of death according to Law. If an Officer, I may do execution according to that ſentence.

If a Traitor or Felon being purſued, fly or reſiſt that he cannot be apprehended, the purſuers may juſtifie the killing of him.

So if priſoners riotouſly reſiſt the Gealer, and they are likely to break away, and he cannot otherwiſe ſuppreſſe them. So when men riotouſly reſiſt the Juſtices and other Officers of peace, and they cannot be otherwiſe ſuppreſſed, or the Peace otherwiſe kept. So if a Forreſter, Parker, or Warrener in purſuit of one that is ſtealing or ſpoilingof his game,when being required to yield himſelf, he reſiſt or fly. In all theſe and ſome other caſes, if one man kill another,he ſhall not be puniſhed at all for it, neither hath he need to ſue a pardon of courſe for his life, as he muſt do in caſes of killing. In his own defence, or by chance medley, and for the better underſtanding of all theſe things touching this kinde of crime, theſe general rules muſt be obſerved. 1. The death muſt be within a year of the cauſe,the blow or the poyſon given,otherwiſe it is no murder, nor puniſhable with death. 2. If one intend to kill one, and miſſeth him,and killeth another, this will be all one in conſtruction of Law as if he had killed the ſame perſon. 3. If one be in doing an unlawful Act, as beating a man or the like, and in the doing thereof he kill a man accidentally, this is a killing puniſhable,and may be greatned or leſſened by circumſtances. 4. If divers perſons come together to do an unlawful act, and one of them kill a man, and the reſt ſtand by, and look on, they are all principal murtherers. 5. All

To keep the peace.

Part II. Chap. 6. that are preſent at a murther, and do encourage the murther, are principal murtherers. 6. It is not material who gives the firſt blow. 7. It is no murther unleſſe the party killed be in being. 8. An intent of killing, unleſſe the act following is not puniſhable by death. 9. Infancy, madneſſe, and compulſion will excuſe a man from puniſhment in caſe of man-killing.

So we have done with felonies private touching the body only, by taking away the life thereof; and now are come to ſpeak of thoſe felonies which do concern the body by abuſing of it otherwiſe.

Sect. 10.

Cutting out of tongues, &c. Loſſe of all, 1 H. 4, 5

If any man willfully put out the eyes, or cut out the tongue of another man; this is felony.

Buggery the liſſe. 25 H. 8. 6. 5 Eliz. 17.

If one commit Buggery with man or Beaſt, this is felony, for which anciently he was to be burned.

Taking and carrying away women, &c. Loſſe of all. 3 H. 7. 1.

If any take away any Wife with her Huſbands goods, Maid or Widow, having Lands or Goods, or being heir apparent to Land, againſt her will, or if any receive any ſuch, this is felony.

Rape the like. Weſt. 2. 13. 18 Eliz. 5.

If any do raviſh any maid, or wife, or widow above ten years old againſt her will, though ſhe after conſent to it. Or if any do carnally know any maid under ten years of age, though it be with her conſent, this is felony.

Bigamy the like

If one marry a ſecond Wife or Husband, the firſt being living, this is felony; But if the party have been abſent ſeven years, and the one doth not know the other to be living within that time, or they be legally divorced, or they were married within years of conſent, it is otherwiſe.

1 Iac. 11.

Now

Now follow ſuch felonies as do concern the body and goods together, or the goods only. Part II. Chap. 6. Sect. 11.

The felony that is committed by the taking away of anothers goods is greater or leſſe alſo by circumſtances, for if one do feloniouſly take away the goods of any Pariſh out of their Church or Chappell, this is a high degree of felony, and is called Sacrilege. Sacrilege. Moſſe of all.

If one take away any thing from the perſon of another, any thing by way of robbery upon the High-way, of picking a pocket, or cutting of a purſe, though it be but a penny, this is an offence of an high degree, and called robbery. Robbery, loſſe of all.

So likewiſe if one break into the houſe of another, where he or ſome of his family are, or uſe to be, with an intent to rob or kill in the night time, and do or do not take away any thing, this is a great offence, and is called Burglary. Burglary, loſſe of all.

So to rob a houſe, Barn, or Stable in the day time, to the value of five ſhillings, though no be in it; Or to rob it by day or night, if the perſon be in it, and put in fear, or to rob him in any part of his dwelling houſe, any of his houſhold being within it.

Or to rob any booth in any fair or market, any perſon belonging to it being within it, ſleeping or waking; all theſe felonies are Burglary: But if in other caſes one man do feloniouſly take away the goods of another againſt his will, be it horſe, ſheep, plate, or any other alive or dead thing, if it be above twelve pence in value, this is felony; yet in this caſe he ſhall have his Clergy for his life. But if the thing taken be under twelve pence in value, then it is a leſſe offence called Petit Larceny, for which the offender Felony, great and ſmall.

Part II. Chap. 6.

fender is onely to be whipped..

Petit Larceny. Whipping.

If any ſervant truſted with his Maſters goods to the value of forty ſhillings, or more, imbezle the ſame, this is felony.

Servants truſted with goods. The like. 21 H. 8. 7.

If one wittingly burn any houſe, or barn full of Corn, or any out-houſe adjoyning to ſuch a barn, or dwelling-houſe, in the night or day, this is felony. Alſo the burning of any other houſe, or ſtack of corn felonioufly, is thought to be felony by the common Law. So alſo if a man wilfully burn his own houſe, and thereby burn his neighbours houſe alſo. So if one burn a part of his neighbours houſe wittingly, and it be quenched, this is felony. If one do malitiouſly cut or burn any frame of building provided for a houſe, whereby it is made unſerviceable, this is felony.

Burning of houſes, the like.

5 H. 4. 5.

Now for the better underſtanding of theſe things, and Larceny in general, you muſt know, 1. It muſt be of goods and chattels, perſonall and moveable. Therefore the ſtealing of Chattels reall, as Charters of Land, an infant in ward is not Larceny. Nor of ſuch things as are part of the Freehold unſevered; as fruit from a Tree, Lead from a houſe or Church. Yet if one cut down a Tree one day, and fetch it away to morrow, it may be Larceny. 2. The party from whom they are ſtolen muſt have a property and a poſſeſſion. And therefore to ſteal goods hidden, waved, or wrecked, or ſtrayed, is no felony. So to ſteal things which are wild of nature, as Doves abroad, fiſhes in a river, is no felony, except it be young Pigeons in a neſt, and ſo reſtrained by nature, or fiſh in a ſtew or pond, and ſo reſtrained by place, or made tame by

Art

Art as tamed Deer. But to take the flesh of any wilde Fowl dead, or the wool from off the sheeps back is felony. 3. They must be things of profit, therefore to take away Dogges, Apes, Parrots, singing Birds, and the like, is no felony. 4. It must not come to the party taking away by the deltvery of the owner; yet if a man have the use only, as of plate in a Tavern, or one deliver the goods to carry to one place, and he carry them to another, or carry them to the same place, and then takes them away, this is felony. 5. The things are carried or led away; yet if one move the goods out of their place, with a felonious intent to steal them, though he carry them not out of the house, it is felony. So if one stealing away a Horse, be taken in the manner, so that he cannot carry him away, this is felony. Part II. Chap. 6.

Thus for of *Simple Offences*. Now for *Relative Offences*, whereby a man doth participate of anothers offence. *Sect.* 12.

One may be accessary to anothers offence two waies, either before or after the same is committed. A man may be accessary before the offence committed, by commanding, conspiring, hiring, abetting, procuring, countenancing or agreeing to it, when he is not present at the deed done. And a man may be accessary after the offence done, by harbouring, comforting, cherishing, shifting away, or concealing of the offender knowing of the offence. And by this he may make himself as far forth guilty and punishable as the principall offender, consentors, actors, and instigators, that suffer the same punishment, touching this thing, these rules and cases are to be remembred. 1. In Treason and Accessary before or after.

Part II. Chap. 6.

and Treſpaſſes, all are principals, and there is no acceſſary. 2. If one command an evil act as to beat another man, or the like, and felony proceed thereupon, he is guilty of this felony, otherwiſe where the act is lawful, and that effect followeth. 3. If one command a felony, and it be done in another faſhion, time, place, or manner then was commanded, yet he is acceſſary to it. 4. But if one command one felony, and he do another, or it be executed on another perſon; or if one do only know of a felony, and not give conſent to it, or be preſent at it (not being party or privy to it) and do not diſturb it, or purſue the felon. 5. If one purſue a felon by hue and cry, and take him, and then take his goods and let him go, or take money of him not to give evidence againſt him, or receive ſtolen goods, knowing them to be ſtolen, by either of theſe he maketh himſelf acceſſary. 6. But to take a mans own goods, and no more, or to endeavour to deliver a felon, or to take ſtolen goods into his houſe, not knowing of it, and no more, will not make a man an acceſſary. But if a man buy ſtollen goods he knoweth to be ſo, and for a ſmall matter, it is dangerous. 7. Felony by Statute hath acceſſaries before and after the fact done, though the Statutes ſpeak not thereof.

By breaking of the priſon. The like.

A man may make himſelf guilty of another offence by a labour to ſhift the offendor from the Juſtice of the Law. As if one in priſon or under arreſt for an offence, or upon a ſuſpicion of it, and another break the priſon, and help to convey him away ſecretly or openly, by this he makes himſelf guilty of his offence.

So

So if one be attainted, arreſted, or impriſoned for an offence, or upon a ſuſpicion of it, and another doth forcibly reſcue him out of his hands that hath him, by this he maketh himſelf a principal offender guilty of the ſame offence, and liable to the ſame puniſhment whereof the party reſcued was guilty, and to which he was liable. Part II. Chap. 6. By reſcue of the Priſoner.

If any hinder by reſcue, or otherwiſe, the execution of the Statutes againſt Rogues, or for the poor. Five pounds good behaviour

A man may make himſelf partaker of anothers offence alſo by an eſcape. And this either voluntary or negligent. If one have a priſoner under arreſt for an offence, and he do willingly ſuffer him to eſcape, this in moſt caſes is as great and dangerous an offence as the firſt; as if the firſt offence be treaſon, this is ſo alſo; yet if the firſt offence be man-ſlaughter, this is only fineable. But if the primitive offendor eſcape againſt the will of him that hath the cuſtody of him, this offence is onely puniſhable by fine and impriſonment. If a man be ſlain in the day, and the Felon not taken, the Town-ſhip is to be amerced. 29 Eliz. 3, 4. By eſcape voluntary or negligent. 3 H. 7. 1.

A man may make himſelf in ſome meaſure guilty of anothers offence by concealment of it. For if one conceal a Treaſon, this is a miſpriſion of Treaſon, and is felony. And if one conceal a felony, this is a miſpriſion of Felony, for which a man is fineable; for every man is bound as much as he may, according to the duty of his place, to prevent and hinder theſe evils. And therefore if one ſtand by and look on whileſt a man is ſlain, and do not his beſt to prevent it, or after he is wounded to attach the mur- By miſpriſion.

Part II. Chap. 6. murderer, he may be indicted and fined for it. And so if he attach him, and after let him escape.

1 H. 4. 12. Ltamf 45. *Sect.* 13. Now we shall descend to the offences which are veniall, and of a lower nature; And first of such offences which are directly against the peace of the Kingdom.

Trespages. These are some of them accompanied with kinde of violence, or at least a shew of violence. And some of them are without violence, and accompanied with kinde of fraud, deceit, or negligence. The first sort are either extraordinary, as Maimes, Riotous, and forcible unlawful Entries, or the like; or ordinary, as assault, battery, and the like. And all these are within the Commission under the word Trespasse.

Maimes, grievous Fine. impos. till paid. If one maim another, that is, by violence offered to his person, deprive him of the use of any one of his principall parts, as his Eye, Foot, Hand, Fore-teeth, Head, or the like, or break his skull, or any bone of his bodie, whereby he is lesse able to defend himself, or offend his Enemy. For this he and his accessaries shall be grievously fined. But if it be such a hurt as is onely a deformity in the body, as the cutting off the Eare or Nose, or beating out of the grinding Teeth, or the like: This though it be a wound, yet is no maim.

Lying in wait. Fine. If any have lain in wait to maim or kill another, so that he dare not go about his businesse; This in the Commission is thus expressed, *De his qui ad gentem nostram mahimand. vel interficiend. in insidijs jacuer.*

If any challenge another to fight him, it is inditable, especially if he send a challenge in writing. If

If any receive any ſuch challenge, and diſcloſe it not to a Iuſtice of Peace within 24 hours or if any knowingly carry ſuch a challenge between others. If any fight any duell or be preſent at ſuch a fight, or do not endeavour to hinder it. *Ord. June 29. 1654.* Challenge.

If any do outragiouſly or rioteuſly pull down, or ſpoil any houſes, pales, Mills, Dove-houſes hayes, ditches, incloſures. Or ſpoil, or rob any fiſh-pools, Parks, Warrens, or take any Hawks or Hawks eggs, or the like. Deſtroying houſes, Parks, &c. Fine, Impriſon. three moneths.

If any do maliciouſly ſtrike another in the Church or Church-yard with a Weapon, or draw a weapon to that purpoſe, this is a great offence. So to ſtrike another in the preſence of a Iudge is a great offence. So to ſtrike an Officer, eſpecially in the doing of his office. So for a ſervant to ſtrike a Maſter, Dame, or Overſeer, is a great offence. Striking in a Churchyard loſſe of an ear. To be marked with an F Great Fine, good behaviour.

Ordinary Treſpaſſes follow. If a man do unlawfully aſſault, impriſon, beat or wound me, or unlawfully take away, break, or ſpoil my goods; chaſe, kill, or hurt my cattell, break or enter into my houſe, enter into my Land, cut, ſpoil, eat up, or tread my graſſe, or corn, break my Wals, dig or carry away my earth or coal, lop, fell, bruiſe, or break my hedges, or Trees, carry away my wife, ſon and heir, or ward, or unlawfully arreſt my goods or cattell, break, or cut my Sluces, or ſhear my ſheep, let out the water out of my Mill-pond, beat my Servant ſo that I loſe his ſervice, or do to me any other ſuch like wrong, for which I may have an Action of Treſpaſſe againſt him. For this offence he may be indited and fined in this Court. And yet I have

Part II. Chap. 6.

murderer, he may be indicted and fined for it. And ſo if he attach him, and after let him eſcape.

1 H. 4. 12. Lamb. 15. *Sect.* 13.

Now we ſhall deſcend to the offences which are veniall, and of a lower nature; And firſt of ſuch offences which are directly againſt the peace of the Kingdom.

Treſpaſſes.

Theſe are ſome of them accompanied with a kinde of violence, or at leaſt a ſhew of violence. And ſome of them are without violence, and accompanied with kinde of fraud, deceit, or negligence. The firſt ſort are either extraordinary, as Maimes, Riotous, and forcible unlawful Entries, or the like; or ordinary, as aſſault, battery, and the like. And all theſe are within the Commiſſion under the word Treſpaſſe.

Maimes, grievous Fine. imper. till paid.

If one maim another, that is, by violence offered to his perſon, deprive him of the uſe of any one of his principall parts, as his Eye, Foot, Hand, Fore-teeth, Head, or the like, or break his skull, or any bone of his bodie, whereby he is leſſe able to defend himſelf, or offend his Enemy. For this he and his acceſſaries ſhall be grievouſly fined. But if it be ſuch a hurt as is onely a deformity in the body, as the cutting off the Eare or Noſe, or beating out of the grinding Teeth, or the like: This though it be a wound, yet is no maim.

Lying in wait. Fine.

If any have lain in wait to maim or kill another, ſo that he dare not go about his buſineſſe; This in the Commiſſion is thus expreſſed, *De his qui ad gentem noſtram mahimand. vel interficiend. in inſidijs jacuer.*

If any challenge another to fight him, it is inditable, eſpecially if he ſend a challenge in writing.

If

If any receive any ſuch challenge, and diſcloſe it not to a Iuſtice of Peace within 24 hours or if any knowingly carry ſuch a challenge between others. If any fight any duell or be preſent at ſuch a fight, or do not endeavour to hinder it. *Ord. June 29. 1654.*

Challenge.

If any do outragiouſly or rioteouſly pull down, or ſpoil any houſes, pales, Mills, Dove-houſes hayes, ditches, incloſures. Or ſpoil, or rob any fiſh-pools, Parks, Warrens, or take any Hawks or Hawks eggs, or the like.

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If any do maliciouſly ſtrike another in the Church or Church-yard with a Weapon, or draw a weapon to that purpoſe, this is a great offence. So to ſtrike another in the preſence of a Iudge is a great offence. So to ſtrike an Officer, eſpecially in the doing of his office. So for a ſervant to ſtrike a Maſter, Dame, or Overſeer, is a great offence.

Striking in a Churchyard loſſe of an ear. To be marked with an F Great Fine, good behaviour.

Ordinary Treſpaſſes follow. If a man do unlawfully aſſault, impriſon, beat or wound me, or unlawfully take away, break, or ſpoil my goods; chaſe, kill, or hurt my cattell, break or enter into my houſe, enter into my Land, cut, ſpoil, eat up, or tread my graſſe, or corn, break my Wals, dig or carry away my earth or coal, lop, fell, bruiſe, or break my hedges, or Trees, carry away my wife, ſon and heir, or ward, or unlawfully arreſt my goods or cattell, break, or cut my Sluces, or ſhear my ſheep, let out the water out of my Mill-pond, beat my Servant ſo that I loſe his ſervice, or do to me any other ſuch like wrong, for which I may have an Action of Treſpaſſe againſt him. For this offence he may be indited and fined in this Court. And yet I have

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I have my Action against him notwithstanding. For in all these Acts there is a double offence, the one against the Common-wealth, for which he is to be punished by fine, the other against me, for which I by my suit shall have amends in Damages.

First offence amends or whipping. 2 offence whipping and good behaviour, and house of correction, the Constable to be committed till he procure him to be whipped. 4 El. 7. 7 Iac. 4. Imprisonment 3 moneths. 3 Damages.

If any lewd person have or hath procured to be unlawfully cut or taken away any Corn growing, or rob any Orchard or Gardens, or break and cut any Hedge, Pale, Raile, or Fence; or dig, pull up, or take away any Fruit-Trees, or cut or spoil any Woods, under-woods, Poles, or Trees standing, not being Felony.

Fine 13 Iac. 13. 7 Iac. 13.

If any have by night or day unlawfully broke or entred into any Park impaled, or other severall Grounds inclosed, used for keeping of Deer; or in the night time unlawfully, and there hunted, driven, or chased out, taken or killed any Deer or Conies against the Owners will.

There do follow in the next place such Trespasses which are accompanied more with fraud and deceit then with force and violence.

Sect. 14. Conspiracy. Fine.

If any do conspire and confederate together, to cause another to be unjustly indicted for an Offence, whereof he is afterward acquitted. And in this four things must be known. 1. That there must be two or more persons in the plot of practise. 2. There must be an Inditement and Arraignment of the party. 3. All this must be voluntary and advised. 4. The party indited must be in lawful manner acquitted, otherwise the party is not inditable.

Slander, imprisoned till he finde his Authour, or good behaviour. West. 3. 14. 2 R. 2. 5.

If any by writing, printing, speaking, or otherwise devise and spread any false and seditious

news,

news, lies, or rumours, whereby diſcord may ariſe between the people of this Common-wealth, *Act.* 20. Sept. 1649.

If any do libell againſt another man, that is, make or promote any ſcandalous writing or doing to the defamation of another man, eſpecially if he be a Magiſtrate. Libell.

If any man ſlander me by ſuch words as for which I may have an Action of the Caſe, as to ſay I am a Traitor, Felon, Thief, Robber, or the like, for this he may be indited and fined. But not for words that will not bear an Action, though they are Motives to the Breach of the Peace. Slanderous words. Cook Par. 4. Inſt. 181.

If any ſpeak any diſgraceful or provoking words to or of another, or uſe diſgraceful or provoking geſtures towards another, for theſe by a new Law he is to be fined, and impriſoned, and give the party wronged ſuch recompence as the Juſtices ſhall ſet down, and lie in *Bridewell* till he do it. *Ord. June* 29. 1654.

If any man do to deceive as I may have an Action of the Caſe for the deceit; It ſeems for this offence he may be indited alſo. And therefore if one ſell me that which is none of his own, or ſell me falſe and deceitful wares, or play with me with falſe Dice; Or being a Millard do change my Griſt, this is puniſhable here. And ſo is any Misfeaſance by a Nuſance, or otherwiſe where an Action of the Caſe lieth, and the Writ is againſt the peace. And therefore a man may be puniſhed here for ſtopping a ditch, whereby my ground is drowned, over-riding my horſe, diſturbing me in my way, Office, Buriall, or the like. So for ſtopping of my lights, laying blocks Deceit. Misfeaſance, Nuſance.

Part II. Chap. 6.

blocks in the High-way, whereby my horſe is occaſioned to ſtumble, and I am hurt. So for any other Nuſance done to men in the Water, Ayr, Light, or Waies; as by ſetting up houſes of Office, Lime-kils, Dye-houſes, unneceſſary gates, or turning of waters in the High-way. But to ſet up a new Mill, a new Pidgeon houſe, or a new Coniger is no Nuſance.

Watring hemp. 5 H. 7. 17.

If any water any Hemp or Flax in any River, ſtream, or common pond where Cattell uſe to drink.

Falſe tokens. Any corporall punithment but death the Juſtices ſhall ſet down.

If any one get the goods of another by privy tokens or counterfeit letters, in other mens names to perſons that are their ſpecial friends and acquaintance.

31 H. 8. 1. Forgery, Fine, and Impriſon.

If any forge a deed, that is, make and publiſh any falſe deed or writing to the prejudice of anothers right, either to charge or get his Land or goods; as if a Copy-holder make and publiſh a Cuſtomary for an uſage, and put ſeals to it, to the prejudice of the Lord, or one forge a Teſtament, whereby a Leaſe for years is given, or if any man make uſe of any ſuch deed, knowing it to be ſo forged. Theſe may be puniſhed by the Common Law, but the power of execution of the Statute is not given to the Juſtices of the Peace.

5 Eliz. 14.

Thus much of Treſpaſſes by force or fraud.

Sect. 15.

Ride armed. Imprif. loſſe of Armour. Stat. Northamp. 2 Ed. 3. 5. Vnlawful Aſſemblies.

If any man but ſuch as have authority, go, or ride armed in an unuſuall manner, this is an affray and breach of the Peace, and every man may arreſt them. This offence is thus expreſſed in the Commiſſion; Of thoſe who in Conventicles againſt our peace, to the perturbation of our people, or with armed force have gone or rid.

If

If three or more come together with an intent violently and forcibly to commit an unlawfull Act, as to beat or wound a man, enter into, break or pull down some house, wall, pale, hedge, or ditch, wrongfully enter into a mans possession to claim, or take a common or way, to destroy any Park, Mill, or stacks of corn, take away a mans wife, or the like, and they do willingly depart, and do nothing, yet this is an unlawfull meeting, and punishable. Chap. 7.

If after their meeting they move forwards towards the execution of the act, whether it be done or no, it is a Rout. And if it be done it is a Riot. So that every Riot doth include a Rout, and an unlawfull Assembly. And that act which is a Riot in the execution, is a Rout, and an unlawfull Assembly in the preparation. And that which is an unlawfull Assembly in the first meeting, is a Rout in the further proceeding, and a Riot in the finall execution. To this there must go three things. 1. There must be three persons at the least gathered together. 2. Their intent in the first meeting must be evill. 3. Their being together must breed some apparent disturbance of the Peace, either by speech, shew of Armour, turbulent gesture, or actuall and expresse violence, to affright peaceable men, or embolden light men by their example.

If any stir up another to do such an act, or if any be stirred up hereunto, and do not within twenty four hours after disclose it to the Sheriff, or a Justice of Peace. But herein you must know, that this doth not prohibit Assemblies to lawfull ends, as to do execution of Justice, to take down common Nusanee, for a lawfull Recreation, or the like. 1 H. 4. 17.

Chap. 7.

Affray.

If any great affray be made in a disturbance of the Peace, and you are to find who they were that did it, and in what manner it was done.

Prophecy 10.t. Imprisonment a year without Bail 20 H.1 imprif. during life loss of all his goods and chattels. 1. Eliz 15. Forcible entry, or detainer.

If any divulge any Propheeie with intent to make Rebellion, or other disturbance in the Realm.

But he must be charged within six moneths after the offence is done.

Imprisonment, Fine, and to remove the force, and upon pledges found] for the Fine to deliver them. Make restitution but not without Inquiry.

If one make forcible entry into Lands, and do forcibly detain Land (that is) do violently and actually enter into any houses, or Lands, or take any distress being weaponed, whether he offer violence, or fear of heart to any there, or furiously drive out any out of the possession thereof, or not, or having entred into the Lands peaceably, doth after hold the same with force, which is said to be a violent act of resistance by a strong hand of men weaponed with harness, or other action of fear, by which the lawfull entry of Justices or other is barred or hindred: for the better understanding whereof, you are to know these things. 1. That one man alone may commit this offence. 2. That an Infant or feme Covert, as they commit most other criminal offences, so they may commit this offence. 3. If divers come in company to do this or any other Trespass, and one of them alone doth the wrong, and the rhe rest stand by, and look on, and do not withstand it, they are all guilty. 4. If it be done by three or more, then it is a Riot, which of his own nature is a great Trespass also.

5.R.2.7.15. R.2.2. 1. H.6. 9. 31. Eliz. 11. 21. Iac. 15. 13.H.6.5. Riot.

Great Fine.

If any one above fifteen years old, under the degree of a Knight, required by any Justice of Peace, or the Sheriff, to assist in the suppressing of

of a Riot, and the punishment of the Riotecs, re- Chap. 7.
fuse it.

Offences against the Justice of the Kingdom. Sect. 16.

The Statutes of *Winchester* are especially commanded to be given in charge, the Articles whereof are as followeth,

For the apprending of Felons, Hues and Crys must be solemnly made in all Counties, and Hundreds, Markets, Fairs, and all other places where resort of people is, & immediately upon the Felony committed, fresh sute must be made from town to town, and country to country; & every man as well within Franchises as without, is to be ready at the commandment of the Sheriff, and cry of the Country, to sue and arrest Felons, *Stat.* of *Winchester* 13. *Ed.* 1. *Ch.* 2. So that if a Felony be done, and he to whom it is done, or another of the company, or some other commeth to the Constable of the next place, and doth tell him of it, and describe the Felon, and which way he is gone, the Constable is presently to call upon the Parish, and they are to make a fresh pursute, and an earnest and diligent search for him; and if they find him not, to tell the next Constable, who with his Parish also are to do likewise, and so to follow the pursute of the Felon to the Sea side, or till he be apprehended. Hues and Cries. Fresh suit Vide.

If any Sheriff, Coroner, Steward, Bailiff of Franchise or other, shall for fear, favor or reward, conceal or consent to the concealment of any Felony, or do not his office in the arresting of Felons, and his endeavour to punish them, if any neglect thereof have been therein. If Hues & Cry have been raised without cause, or having cause, if they have not duly raised, and Dalt. Just. P. c. 8. Grievous fine.

Chap. 7. effectually purſued, you are to preſent it.

Watch. In great walled Towns, the gates muſt be ſhut from Sun-ſetting to Sun-riſing, and no man is to lodge in the Suburbs, nor out of the Town, from nine of the clock till day, unleſs his hoſt will anſwer for him, and the Bailiffs of the Town muſt enquire of ſuch perſons, once within every fifteen daies, and if they find any man to have harboured ſuch ſuſpicious perſons, they are to be puniſhed as breakers of the Peace.

Stat. Winch. ch. 4. 5 H. 4. 3. You are therfore to enquire whether the watch be kept from *Aſcenſion day* till *Michaelmas*, from Sunſet to Sunriſing, and with a number of men, as is fit for the place. And if any ſtranger paſs by them, they muſt arreſt him till the morning. And if then he ſeem ſuſpitious, they muſt deliver him to the Sheriff. If otherwiſe, then they Stat. Winch. c. 4 5 H. 4. 3. are to let him go; and if he refuſe to ſubmit to the Arreſt, and get away, they may ſend Hue and Cry after him, till he be apprehended.

Sect. 17. officers. There are many Lawes that do concern Officers, Sheriffs, Bailiffs, Conſtables, Eſcheaters, Ordinaries, Coroners, Clerk of the Market, Overſeers of the poor, and others. They altogether ſpeak thus much in the generall, that Officers muſt be skilfull, and faithfull, attend their charges, and be content with their wages. If any negligence or corruption be found in any of them, it is to be puniſhed here.

This offence is thus ſet forth in the commiſſion. As alſo whatſoever Sheriffs and other Officers, who in execution of their offices about the premiſes, or any of them unduly have behaved themſelves, or ſlack, remiſs, and negligent have been.

Chap. 7.

If any under-Sheriff, Bailiff of Franchiſe, or Sheriffs Deputy, appointed to have to do in the returning of Juries, or execution of proceſs, do intermeddle therewith before he hath taken the Oaths ſet down in 27. *Eliz.* ch. 12. or after he is ſworn, to do any thing againſt theſe Oaths.

Sheriff forty pound, if he impannell any Jury before.

If the Sheriff return iſſues upon Jurors not having ſummoned the man.

27 Eliz. 5.

If a Sheriff imbezle a Writ, or make a falſe return.

Treble damages and Fine.

If he or his Officers levy the publick debts by Rolls, and not by Eſtreats under the Exchequer Seal, 42. *Ed.* 3. 9. or they do not roll that which is paid, ſo that he be made to pay it again, or take unreaſonable diſtreſs, or take a mans ſheep, or Plow Cattell, when there is enough other, or diſtraines the Fee of the Church, or drive the diſtreſs out of the County, nor out of the Hundred, but to a Pownd overt, within three miles.

If any Sheriff let his County, or any of his Bailiwicks, Wapentakes or Hundreds, or have returned in any Pannels, any Officers, or their Servants, or Servants Servants, have refuſed to let to Bail upon ſufficient Sureties any perſon arreſted on an action perſonal, or an indictment for Treſpaſs (not being in for condemnation, execution, outlawry, excommunication, Surety of the Peace, or commanded of any Juſtice, or for being a vagabond, or if he have taken any obligation by colour of his office, but only to himſelf, and upon the name of his Office, and upon condition only to appear according to the Writ or Warrant.

Letting his Bailiwick. Return of Pannels. Bail.

Forty pound for every offence, treble damages to the party grieved. Obligation.

23 H. 6. 10.

Chap. 7.

County Court.

If any Sheriff or his Miniſters have entred into his Book any Plaints in any mans name, not being preſent at the Court himſelf, or by his ſufficient and honeſt Attorney, or Deputy; or if he

Forty ſh ſlings every offence.

hath entred any more Plaints then the Plaintiff ſuppoſeth he hath cauſe of action for. Or if he hath levied the Shire amerciaments without a book indented between him, and two Juſtices of Peace. Or if the Bailiff of the Hundred have made default in warning, or executing any Warrants againſt any Defendant in the Sheriffs

11. H. 7. 15. Court; Or if the Bailiff be not ſworn before the Juſtices of Peace, to collect no more money then what is in theſe Eſtreats.

Or if the Sheriff do not ſee that the Plaintiff do put in pledges to proſecute his Action.

Return five marks to the King five marks to the party.

If any Sheriff that hath the return of any Writ, return any Juror without the addition of his place where he doth now, or did within a year paſt dwell, or ſome other addition whereby he may be known; or if any Eſtreat of iſſues hath been gathered of any perſon other then ſuch as by vertue of the ſaid Eſtreat was of right chargeable.

23 Eliz. 7. Double value.

If any Sheriff or his Officers having received money for the forfeiture of a man for ſelling of Beer to an unlicenſed Ale-houſe upon the Statute of 4. *Jac.* 4. and refuſe to pay it to the Church-wardens and Overſeers.

Return of Jurors 20 pound. 8. H. 6 9.

If he do not return ſufficient Jurors to enquire of forcible Entries, or otherwiſe neglect the Juſtices warrant.

Clerk of the Market

The Clerk of the Market, or other Officer for that purpoſe is to mark and ſeal ſuch weights and meaſures as are brought to him. 2. Accor-

ding

ding to the Exchequer measure. 3. This he is to do but once, not every year. Chap. 7.

If a Gaoler suffer a prisoner to have more liberty then is fit, for prisoners must be kept in safe and close custody. Or if he refuse to take in such prisoners as are sent to him, or suffer escapes. Gaoler finable.

If any Steward of a Leet, or Officer of Market Town have taken any fine for breach of the Assize of bread or beer in such cases where corporall punishment is appointed. Steward of Leet 13. R. 2. 8.

If the Coroner do not come upon request, and enquire upon the view of any person slain, drowned, or otherwise dead by misadventure. Coroner 40. S. 1. H. 8. 7.

If any Escheator take upon him the office, not having twenty pound a year Land in the County, or sell or let to farm his office, or make Deputies for whom he will not answer, or whose names he hath not certified unto the Exchequer within twenty daies. Escheators 40. pound 32. Ed. 3. 9.

If the Ordinary delay to prove Wills at the pay, and fees appointed, or to grant administration according to the Statute, or to deliver Copies of Testaments or Inventories. Ordinary 10. pound. 21. H. 8. 6.

If any owner or officer, ruler of a fair, have not appointed one certain open place there, for sale of horses, geldings, mares, and colts, and one sufficient person to take toll, and keep the said place, and take toll there from ten a clock to Sunset. And take any toll after or before, or else-where. And if he have not the parties contracting, and horse for which the contract is made present. And do not take and keep a book, and therein write the names of the persons contracting, the place of their dwellings, Owners and rulers of Fairs and Markets forty pound. 40. shill.

Chap. 7.

and colour, or some speciall mark of the horse.

3 and 4. Ph. and Ma. 7.

If any have in any Fair or Market sold or put away any kind of horse, untill the Toll-taker, or chief Officer there will take upon him perfect knowledge of the person, his name and place of dwelling, and enter the same into his book. Or unless the seller bring to the Toll-taker one credible man that will testifie that he knoweth the man, his name, mystery, and place of dwelling, and then enter the same. And the names, mystery, and place of the testifier, and the price of the horse. And if any testifie that doth not truly know the same. Or if the Toll-taker shall refuse to give a note to him that buyeth of that entry, paying 2. d. for it.

Five pound every default.

31 Eliz. 12. 40 shil. every fault. 2 and 3. Ph. and Ma.

If the the Toll-gatherer, or Book-keeper do not within a day after the Fair or Market bring his Book to the Governour. And if he do not cause a note to be made of all the horses sold, and subscribe his name or mark to it.

Head Officers of Towns, fine 31 H. 7. 4.

If Head Officers of Towns have not twice a year made view & examination of the weights and measures there, and break and burn the defective.

If the Constables and Church-wardens do not present the monethly absence of Recusants from Church.

Constables, Overseers of the poor, Church-wardens.

If the Constable or other Officer do not his office against Drunkards, upon 4. *Jac.* 5. Of if he do not his duty in the levying of money upon Ale-house keepers according to the Statute.

1 Tac. 9. 10. to be levied by distress and sale 2 shil. Double the value.

If the Constable hath not punished Rogues according to the Statute of 14. *Eliz.* 5. 1. *Jac. ch.* 7. especially when they are brought to him.

If the Church-wardens and Overseers of the poor,

poor, to whom mony forfeited by 4. *Jac.* 4. is payed, do not beſtow the ſame amongſt the poor, according to the Statute of 1. *Jac.* Chap. 7.

If the Church wardens do not levy the money for the relief of priſoners, according to 14. *Eliz.* 5. 1. *Jac.* 25.

If the Conſtables and Church-wardens do not in *Eaſter* week chuſe Supraviſors every year to look over the high wayes according to the Statute of 2 *&* 3 *Ph. & Ma. ch.* 8. 20 ſh. fine,

If Conſtables do not aſſiſt men againſt the unjuſt taking of Purveyors, being required, 10 H. 6. 8.

If either of theſe Officers ſlight or neglect to execute the Juſtices of Peace his Warrant, in caſe where they have authority, and are commanded by it. Fine.

If Conſtables and Church-wardens do not pull down Maypoles within their Pariſh. Five ſhillings a week, 5 pound, good behaviour.

If Overſeers of the poor put out ſuch poor out of their Pariſh, as ought not to be put out againſt 39. *Eliz.* 4.

If the Over-ſeers of the poor do not their duty according to the Statute of 39 *Eliz.* 34. 43. *Elizabeth cap.* 2. as to ſet the poor on work, make and levy rates, meet monethly and give account. 20 ſhillings every default.

If Conſtables and ſuch like Officers do not their beſt to keep the Peace, to part Affrayers, keep them aſunder, and if he do not bring them to priſon when he hath done. If they refuſe to give account to be committed.

If the Miniſter of the Pariſh do not keep a Regiſter Book to enter the Teſtimoniall for Rogues, according to 39 *Eliz.* 3 *&* 4. And there muſt enter Licenſes for ſick perſons to eat fleſh, and a Teſtimoniall for ſervants departing from their Miniſter.

their Masters. If a School-master formerly ejected out of a place for scandall, or ill affection, teach Schoole in the same place, or any entertain him there. It is ten shillings a day forfeit. Ordin. *Aug.* 29. 1654.

Informers 28. Eliz. 5. 87. Eliz 10. 31. Eliz. 5. Pillory two hours on a market day, to. l. and deposed.

If a common Informer inform after he is legally put out, or being duly in, compound with any offender, without license of the Court; or doth follow any sute by his Deputy, and not in person, or by his Atturney in Court: Or if he compound before the Party answer, or after, or take any reward or promise, without consent of the Courts at *Westminster*, or one of them.

Gawger sour times the value of that which the vessel shall lack.

If the Gawger do not Gawge all the Vessels that come into this Realm within the limits of his Office, according to the contents of the Statute, 28. *H.* 8. 14. and mark upon the head thereof his content, according to 1 *R.* 2. 13.

If Bailiffs and Heads of Cities, Burroughs, and Market-towns, and Lords of Liberties out of such places, do not yearly appoint and swear two or three, or more, skilfull and honest men, to be Searchers and Sealers of Leather there, and fix honest men to try it. Or if such Searcher, or Sealer refuse to execute his Office; or if Tryers refuse or delay, and do not their duty, or if Searchers, or Sealers refuse or delay to seal good Leather, or allow unsufficient Leather, or receive any bribe for executing of his Office.

Searchers and sealers of Leather 40. l.

Ten pound.

Five pound. County shillings a last. 20.

If the Treasurers of the County stock for poor maimed Souldiers and Mariners, do their duty according to.

Treasurers for maimed souldiers. 43. Eliz. 3. Sour bens of Tyle to a every default. 19. Ed. 4. 1.

If the Searchers of Tyle appointed by the Justices

stices of peace, do not search the Tyle, and present the defaults of Tyle-making at next Sessions. Chap. 7.

If an Atturney sue another man of his own head in anothers name, without authority, or discover his Clients counsell, or the like; or he admit another to follow suites in his name. Atturneys.

If the Supravisors of High-wayes do not set the Inhabitants their dayes for work for them and their Ploughs, and see they do it, and present the defaults according to the Statutes to the next Justice of Peace within a moneth. Supravisors of the high wayes 10. 1. 2. & 3. Ph. M. 8. 5. El. 13. Gov. of the house of correction.

If the Governour of the House of Correction do not his duty according to 39. *Eliz.* 4. 7. *Jac.* 4.

If the Over-seers of cloth appointed by the Justice of Peace, do not their duty, in looking to the cloth that is made, that the Ordinance of Parliament be observed. They are once a quarter at least to visit the Houses and Shops of Cloth-workers, Dyers, Drapers, and to view the Cloth made. Or if they refuse or neglect their Office, or to take their Oath. If they refuse to appear, or be bound in a Recognizance. Overseers of cloth to 1. every default. 3. Ed. 6. 2. 27. Iac. 18. 39. Eliz. 20. 43. Eliz. 10. 5. & to be commit. till paid, 5. l. commit. till payment.

If the Collectors of the money for the relief of the prisoners in the common Gaole, do not their duty according to 14. *Eliz.* 5. Collectors for prisoners in the common Gaole.

If Purveyors take goods, and not pay for them; Of if any such Officers have procured any to be arrested, or vexed, for resistance of their unjust demands. If they take Sea-fish from any Seaman against his good will.

If any Purveyor of Timber have felled any Oak-timber fit to be barked, but according to the Statute of 1. *Jac.* 22. Purveyors, 2. M. 6. 8. 13. H. 6. 2. Double damages at 1. Double the value. 5. Eliz. 6. 9.

Chap. 7.

Treasurers for the Kings Bench

If the Treasurers for the relief of the prisoners in the Kings bench and Marshalsey, do their duty according to 43. *Eliz.* 2.

Sect. 18.

Extortion. Finable. 27 H.8 27.

If any Officer by colour of office, be he within or without a Liberty, require more money for the doing of any part of his office, then is due and appointed, this is extortion. And this is within the Commission, in these words, Of extortions.

1 M. 4. 11. Fitz. l. P. 170.

By *Westm.* 1. 3. *Ed.* 1. No Minister of the King may take any reward for doing his Office.

Sheriff or his Officers.

The Sheriffe is not to take above 20. d. for an arrest; neither he nor any Officer of his to take any thing for any Return or Pannell, or to take above four pence for the Obligation, or any Warrant or Precept, nor is he or any Bailiff to take above four pence for any Arrest: Or the Gaoler to take above four pence upon the commitment of any person arrested to him; neither he nor the Gaoler are to have any thing of Constables, or Townships, when they deliver in Felons to them, yet they are to receive them.

40 l. for every offence.

Treble damages to the party grieved.

23 H. 6. 10.

27 El. 4.

The Sheriff for doing execution upon body, lands, or goods, is to have but twelve pence the pound under a hundred pounds, and six pence for the residue.

Escheator.

23 H.8. 17

An Escheator is to take for the execution of a *Diem clausit extremum*, or other Writ in one County, but forty shillings in all. And if the lands be not above five pounds, he is to take but fifteen shillings in the whole. And where the lands are not found to be held in *Capite*, he is not to take any thing at all.

The

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The Coroner is to do his office upon the view of a dead body by misadventure, without taking of any Fee. And upon the view of a dead body slain, he is to take but thirteen shillings four pence of the goods of the murtherer, if he have any, otherwise of the Town where he was slain in the day time, and suffered to escape.

Coroner 40 s.

5 l. 3 H. 7. 1. 1 H. 8. 7.

The Justice of Peace for the inrolment of a Deed, is to have no more than the Clerk of the Peace.

Justice of Peace. 27 H. 8. 16.

If the goods be not above five pounds, the Ordinary is to have for the probate of the will, or letters of Administration, but 6. d.

Ordinary.

If above five pounds, and not above forty pounds, 2 s. 6. d. for the Ordinary, and twelve pence for the Scribe. If above forty pounds, then two shillings six pence to the Ordinary, and two shillings six pence to his Clerk. Or else one peny for ten lines at ten inches. The like must be given for the Copy of a Testament, or Inventory, and to take more is Extortion.

10 l. and so much as they take more than due.

21 H. 8. 8. P. I. P. 172.

Ministers must take but four pence for the license of a sick person to eat flesh on a Fish-day: two pence for a Testimoniall of a Servant departing from one place to another.

Ministers 40 s. and as much above as he can, 5 Eliz. 4. 5.

If any Ordinary, Parson, Vicar, or other, take money for a Mortuary where none is due, or more than due where it is due, this is Extortion, 21 *H.* 8.

Mortuary 40 l. and as much.

The Clerk of the Peace is to take but twelve pence for inrolling any bargain and sale of land not above forty shillings a year, but two shillings six pence if the Land be more: He is to take but two shillings in all for any License and Recognizance of a Badger, Drover, Kidder, or Lader,

Clerk of the Peace.

Chap. 7. der, and for the registring thereof; and twelve pence for a License to shoot in a Gun to kill Hawks-meat, and but twelve pence for a Recognizance of him that taketh a Rogue into his service but one year. And he is to have nothing for the recording of a presentment of the monethly absence of a Recusant.

27. H. 8. 16. 5. Eliz. 12. 2 Iac. 27. 14. Eliz. 5. 3. Iac. 4.

Mayor. If any Mayor take above a penny for sealing a Bushell, & all other measures above a half-penny; or above a penny for an hundred weight, or a half penny for half a hundred weight, or a farthing for a less weight.

7. H. 7. 15.

Clerk of the Market. If after he hath once sealed, he take any thing for the sealing thereof again, or for the shewing thereof. And he is to take no money for any bills, &c. or examination of weights, &c.

He that keepeth the Standard for the Shire-town, is to have for sealing a Bushell one penny, for the other measures an half-penny; for every hundred weight one penny, for half a hundred weight a half-penny, and for less a farthing.

Cook. 1 part. of his Inst. 274, 275 The Clerk of the Market is to have four pence for marking and sealing a Bushell, two pence the half Bushell, one penny the Peck, and so for the rate; if he take a common fine, all this is Extortion.

Clerk of the Peace. 9. Ed. 6 39. If a Justice of Peaces Clerk take above twelve pence for a Recognizance of an Ale-house-keeper or Tipler.

Toll-taker. 2. & 3. P. & M. 3. 31 Eliz. 12. The Tol-gatherer is to take but one penny for one Contract, and setting down the names of the parties thereunto, and two pence for a note of the Entry.

Searchers. W. Rid. 4. 4. The Searchers of Tyle are to have for every thousand plain Tyle one penny, every one hun-

dred

dred roof Tyle, one half penny, and every hundred Gutter-tyle, and Corner-tyle one Farthing. Chap. 7.

If any man take above four pence for impounding one distress. Extortion. 1. & 2. Ph. & M. 2.

If any Officer be opposed or abused in the execution of his Office. *Sect.* 19. Officer

If any man break or open the common pound, and take or let out any Distress which was therein, or let a man out of the Stocks, or the like. Pound-breach.

The instruments of Justice, as Stocks, Pillory, Pounds, and the like, must be had in all places; and they must be such as are usefull, and defaults herein are to be presented. Instruments of Justice.

Now follow the Articles which concern the Trade of the Kingdome, buying and selling, and Tradesmen. *Sect.* 20.

There are many Laws that concern Trading and Traffique, which may be thus reduced: 1. None may exercise some Trades before they have been trained up in them. 2. Tradesmen must sell true, not false and sophisticall commodities, especially provision. 3. They must sell at reasonable prices, and for moderate gain. 4. Bakers, Brewers, and such like Taadesmen, must keep the Assizes. 5. All Tradesmen must sell by just weights and measures. Trading and Traffique. Apprentices. Prices.

The offences against the Laws, are either in their entrance into their Trades, or in the use and exercise of their Trades.

Those that are in the exercise of their Trades, are; 1. In the persons selling, or to whom the things are sold. 2. In the preparing, making, selling, or in the commodities themselves, and things

Chap. 7. things sold. 3. In the places where the things are sold. 4. In the prices of things sold. 5. In the measure or weight by which the things are sold. For the resistance of which distempers, some Lawes are made for prevention of the disease before, some for the correction and cure of the disease afterwards.

Wine. Licens. 7 Ed. 6.5. 5 and 6 Ed. 6.25

If any sell Wine or Ale without authority or License.

Apprentice 10 l. 5 Eliz. 4. 8 Car. 4.

If any man have used or occupied any Art or Manuall Occupation used in the fifth year of Queen *Elizabeth*, which hath not been brought up therein seven years at the least as an Apprentice. Yet Church-wardens and Over-seers may use any Trade for the setting of their poor a work.

Butchers 6 s. 8 d. every day. 1 Iac. 23.

If any man during the time he hath used Occupation of a Butcher, hath also used the mystery of a Tanner.

Tanners lose the hides, and skins tanned. 1 Iac. 22.

If any person (during the time he hath used the mystery of a Tanner) hath used also the mystery of a Shooe-maker, Currier, Butcher, or of any Artificer using the cutting and working of Leather.

Treble value, two moneths imprisonment.

If any by himself or other buy any wheat or otherwise, with intent to put the same in meal, flower, or otherwise, without license first had in open Sessions, under the hands and seals of five Justices, *Act.* 23. *Oct.* 1650.

Brewers.

If any Brewer of Ale or Beer to sell, shall use the mystery of a Cooper, or make Barrels, &c. 23 *H.* 8. 4.

If any person other then such as had a Tanhouse, 19 *Martii* 1603. and did then occupy Tanning of Leather, or hath been taught as an Ap-

Chap. 7.

Apprentice, or hired ſervant, ſeven years in the myſtery of tanning Leather, or hath been wife to a Tanner, or ſon of a Tanner, brought up in that myſtery four years, or the ſon or daughter of a Tanner, or ſuch perſon as hath married the wife or daughter of a Tanner (that left to the ſame his Tan-houſe and Fats) have tanned any Leather, or taken any profit by tanning thereof. Loſe all the leather tanned.

If any perſon being a Currier, hath (during the time that he hath uſed Currying) uſed the feat of a Tanner, Cord-wainer, Shooe-maker, Butcher, or other Artificer uſing cutting of Leather. Six ſhill. eight pence for each hide or skin.

If any one to whom any unlawfull Leather hath been given by the Statute, have given or ſold the ſame to any perſon that hath ſold the ſame again. Tree ſhill. four pence by the buyer.

If any man forbidden to make Malt to ſell, do not forbear. Maltſter. Imprit. till he give bond to obey.

If one ſell another that which is not his owu, and after the owner take it away from him that bought it. Cheater.

If any Brewer ſell his Beer to any unlicenſed Ale-houſe-keeper, except it be for his own houſe. Brewer 6 s. 8 d. the barrel. 4 Jac. c. 5 Eliz. 5.

If a Victualler ſell fleſh on a faſt day to one that hath no licenſe to eat it.

If any one have bought to ſell again, or ſold any Deer, Hare, Partridge, or Pheaſant, not brought up in his houſe. Every Deer 40 ſhill. Hare 10 ſhillings Pheaſant 10 s. Partridge 20 s. 1 Jac. 27. Eliz.

If any perſon have bought, contracted for, or beſpoken any rough hide, or calves skin in the hair (except ſalt hides for the neceſſary uſe of ſhips) but ſuch perſons only as ſhall and may by

Chap. 7. this Act tan the ſame, or will tan the ſame.

Leather.

If any perſon hath bought, ſold, or beſpoken any tanned Leather, not wrought into made wares, (other then ſhreds or necks of Sadlers and Girdlers) but ſuch perſon only as will convert the ſame into made wares.

In-keeper: 2 Ed. 6. 8. 5 Eliz. 1. 35 El. 7. 1 Iac. 19. Victualler ſell corrupt victuals fines. Tanner 3 s. 4 d.

If any In-keeper or Victualler ſell fleſh on a prohibited day, or any man eat it on ſuch day.

If any Victualler ſell, or offer to ſell any corrupt or unwholeſome Victuals, as fleſh meſled, that died of the *Murrain*, or the like.

If a Tanner put to ſale a putrified or rotten hide.

Arrow-head Smith loſe the head Imp. Wine. 7 H. 4. 7.

If any arrowhead Smith have not well boiled, braſed, and hardened at the point with ſteel, and marked with his mark ſuch heads of *Arrows* and *Quarrels* as he hath made.

Deceit in ſelling. Butchers aſſe for every hide. 8 Ric. 10.

If one ſell another deceitfull wares, and know them to be ſo, and warrant them to be right; for otherwiſe (except it be victuals) it is not inditable by the common Law.

If any butcher have gaſhed, ſlaughtered, or cut the hide of any Ox, Bull, Steer, or Cow, whereby it is impaired; or have watered any hide, except in *June*, *July*, and *Auguſt*.

Tanner.

If any Tanner have ſuffered the ſame to lie in the Limes till the ſame be over-limed: or have put the Hides in any Tan-fats before the Lime be perfectly wrought out of them: or have uſed any thing in tanning but Aſh-bark, Oak-bark, Tapwort, Malt, Meal, Lime, Culverdung, or Neatdung: or hath ſuffered his Leather to be frozen or parched with the fire or Sun: or have tanned with Cotton hides: or have not ſuffered the Hides for outer ſoal Leather to lie in

Loſe the hides or value.

the

the Woozes twelve moneths, and for the upper Leather nine moneths: or have negligently wrought the Hides in the Woozes: or have not renewed their Woozes as oft as was requisite: or have put to sale any tanned Hide not wrought according to the Statute. Chap. 7.

If any Tanner have raised with any mixture any Hide to be converted to Backs, Bend Leather, clouting Leather, or any other soal leather except the same be fit for that purpose. Tanner loseth the hides.

If any put to sale, or otherwise depart with any tanned Leather (red and unwrought) but in open Fair or Market in the places therefore prepared, unless it hath been first lawfully searched or sealed, in some open Fair or Market; or put to sale any Leather before it hath been first searched or sealed according to the Statute. Tanner. For every hide or piece of leather 6 sh. 8 d. and for every 12 Calves or threps skins 3 s. 4 d. and the hides or skins, or their value.

If any Tanner put to sale any Leather insufficiently, or not throughly tanned, or not well and throughly dried, and the same so found by the Triers of Leathers appointed by the Statute. Tanner so much leather.

If any have set his fats in Tan-hills, or other places where the Woozes or Leather to be tanned in the same may take any unkind heats, or hath put any Leather into any hot or warm Woozes. Tanners ten pounds, pillory three market days.

If any Currier have curried any Leather but in his own house in a Corporate or Market Town. Or have curried any Leather not well tanned, or not throughly dried after his wet Season, or have used in such wet Seasons any deceitfull means to corrupt the same; or have curried any outward soal Leather with any other stuff then hard Tallow, or less of that then the Currier 6 sh. 8 d. and the value of each skin marred (except galling in shaving) and for that double so much as the leather hath.

Chap. 7 Leather will receive; or inner ſoal Leather, or over ſoal leather, but with good ſtuffe, being freſh and not ſalt, or have not liquored them throughly, or have ſcalded or ſhaven too thin, or gaſhed in ſhaving, or otherwiſe, or not wrought ſufficiently any leather.

Shoo-makers. *If* any Shoo-maker have made any Boots, Shooes, Buskins, Startups, Slippers, or Pantofles, or any part of them, of *Engliſh* leather wet curried (other than Deer, Calve, or Goat-skins, dreſſed like *Spaniſh* leather) but of leather well Tanned, or Curried, or well tanned only, and well ſewed with thred well twiſted, waxed, and roſened, with the ſticher hard drawn with hand leathers, without mixing Neats and Calves leather, in the over leathers thereof: or have put into any Shooes, Boots, *&c.* any leather made of Sheeps-skin, Bull-hide, or Horſe-hide, or into the upper leather of any Shooes, Startups, Slippers, or Pantofles, or into the neather part of Boots (the inner part of the Shooe only excepted) any part of the womb, neck, ſhank, flank, pole, or cheek of any hide, or into the utter ſoal, other than the beſt of the Ox, or ſteer hide; or into the inner ſoal, other than the wombs, neck, pole, or cheek; or in the Treſwels of the double ſoaled ſhooes, other than the flanks of any of the ſaid hides; or have put to ſale in any year between the laſt of *September*, and 20 of *April*, any Shooes, Boots, Buskins, Sltartups, Sippers, or Pantofles, meet for any perſon above four years old, wherein hath been any dry *Engliſh* leather (other then Calve or Goat-skins dreſſed like *Spaniſh* leather.)

If

If any Gold-ſmith or worker of ſilver have wrought any ſilver that is not ſo fine in allay as the ſterling; or have not ſet his mark upon his work before he ſet it to ſale; or if any have gilded any ſheaths, or any metals but ſilver, ſaving the ſpurs of Knights, and the apparell of a Baron, or ſuch as are above that eſtate. Chap. 7. Goldſmith. Double value. 1 H. 6. 14. 8. H. 5 3.

If any Tile-maker have not digged and caſt up his earth for Tile till after the firſt of *Nov.* or have not ſtirred and turned it till after the firſt day of *February* following; or if he have wrought it before the firſt of *March* following, or if he have not wrought, and tried it from ſtones, veins, and chalk; or if he have made, or any other put to ſale any plain Tile under ten inches and a half in length, ſix inches and a quarter in breadth, and half an inch and a quarter in thickneſs, or any roof-tile under thirteen inches in length, and half an inch and half a quarter in thickneſs, with convenient deepneſs; or any guttet-tile under ten inches and an half in length, with convenient thickneſs, breadth, and depth. Tile maker. For every hundred of plain tile 5 s. and every hundred of roof-tile 6 s. 8 d. 7 Ed. 4. 4.

If any ſell meal in any ſhop within twenty miles of *London*, or within any other place of this Common-wealth, but in the publique Market place uſually for that purpoſe, or ſell meal in any other quality then as it comes from the mill. If they mix it, or if any uſe any bolting mill or other inſtrument in the dreſſing or ſifting any corn or grain, with intent to ſell the ſame in meal or flower. Ord. 23. *Octob.* 1650. Treble value, and two moneths impriſonment.

If any Malt be made of Barley but in *June*, *July*, and *Auguſt*, to be ſold, but what hath three Maltters 2 s. 6 d. every quarter.

Chap. 7.

weeks time in the Fat, Floor, steeping, and sufficient drying, and in these moneths seventeen dayes; and this hath been done within one year last past.

The Like Constable with the advice of one Justice of peace may sell defective full mult. 20 l. 4 quarters 2 & 3. h. 5. 18. 27 El. 14. 1 Iac. 25. 22. 3 s. 28.

If any have within a year mingled any Malt not sufficiently made, or made of mow-burnt or spired Barley, with good malt, and after put the same to sale.

If any within a year have sold Malt, till it be sufficiently and well fanned, trodden, and rubbed, so that half a peck or more of dust may come out of a Quarter.

Chandlers.

If any have sold or set forth candles, or other works of Wax to sale.

Clothiers Fine. 3 pounds by distresse, and for want committment. 3 Ed. 6. 2. 5. Ia. 18.

If any Cloth-maker have not set his seal of Lead to his cloth, thereby declaring the just length thereof to be tried by the water. Or have put in any flocks, nails, or thrumbs into any broad cloth.

If any have stretched any cloth above one yard and a half in length, or one quarter of a yard in breadth, or have put to sale any cloth that have shrunk more in the wetting than is aforesaid. Or have stretched any narrow Streit or Kersie above one yard in length, and a quarter of a yard in breadth, or have put any such to sale, that have shrunk more in the wetting, or have put in deceivable stuff into the cloth.

Deface them, sell them, moneys to the poor, 39 El. 20. 25. Diers of cloth 20 shillings. 20 pounds and pillory, 39 El. 20. 25. Dyers of wool.

If any use any Tenters to stretch their cloth.

If any Dier of woollen cloth have died any brown Blues, Pewks, Tawnies, or Violets, that were not perfectly boiled, grained, or madderd upon the Woad; and shot with good Cork, or Orchall sufficiently, 2 *Ed.* 6. 2. Or in dying of any Cloth, Wooll, Yarn, Grogerain, Buffins,

or

or Silk, or any thing made of woollen Yarn. Or if any Log-wood, or Block-wood, with other ſtuffe in Dying. Chap. 7.

If any perſon have dyed any Wooll for Cloth, called Ruſſets, Marbles, Grays, Bays, or ſuch like; or for Hats or Caps, unleſs it were perfectly woaded, boiled, and maddered; or have dyed with Brazill, to the intent to make a falſe colour in any ſuch Cloth or Wooll: or have put any flocks, chalk, ſtarch, or other deceivable thing upon any Cloth, (except certain *Devonſhire* and *Cornwall* Streights.) For all theſe Deceits ſeem puniſhable by the Common Law.

40 ſh. a cloth, or wooll to make a cloth.

20 ſhill.

40 ſhill. 3 Ed. 6 2.

If any have occupied any Iron Cards, or Picards in rowing of any woollen cloth: or have ſold any cloth by any leſſe meaſure than after the true content thereof, to be met by the Yard, every Yard being an inch more by the Rule. If any ſell any Cloth being preſſed, to be occupied and worn in the Realm.

Iron cards, &c. loſe them all, &c. 10 li. li. 6 ſh. 4 d. for every yard loſſe of cloth or the value 3 & 4 W. & M. 2. 5 W. & M. loſſe of it or the value of it 5 & 6 Ed. 6.

If any preſs any kind of Cloth with the hot preſs, or in any deceivable manner, but only with the cold preſs, 5 & 6 *Ed.* 6. Or if any uſe any other deceit in making Cloth contrary to 4 *Jac.* 2. 21 *Jac.* 18. or any other Statute.

Linnen cloth, loſe cloth, impriſon one moneth Fine. 5 li. &c.

If any have uſed any racking, beating, or caſting of any deceitfull liquor or other mean, with any kind of linnen Cloth, whereby the ſame becomes deceitfull.

No Cooper may make any Veſſell for Beer or Ale to be ſold but according to the meaſures appointed, unleſs he ſet a mark upon him how much it is.

Cooper.

25 H. 8. 4.

And they muſt ſell them at ſuch prizes as the

Chap 7. Justices of the Peace at their Quarter Sessions after *Easter* shall set down and proclaim.

8 shill. 4 d for every barrell, Kilderkin and firkin.
8 Eliz. 9. Prices.
23 R. 2. 8. 13. Ed. 3. c. 21. Jac. 22. 5 Eliz. 5. 17. Eliz 1. 25. H. 8. 24. 27 H. 6. 13. 34 H. 8. 7.

If Butchers, Fish-mongers, Inholders, Tiplers, Brewers, Bakers, Poulterers, and other Victuallers do not sell at reasonable prices, having respect to the prices they buy.

If any sell Wine in gross or by retail, above the prices set by the Lord Chancellor, Treasurer, and others appointed to set it, and declared by the Kings Proclamation, if any be.

25 H. 8. 2.
23 R. 2. 8.

If any Brewer or Victualler take more for their commodities than the prices the Justices of Peace do set down.

Inholder and Hostler.

1 Offence fine, 2 offence imprisonment one moneth without bail.
3 offence pillory without mony.
4 offence forejudger of Innekeeping 23. R. 2. 8., H. 4. 25. 21 Jac. 21.

If any Inholder or Hostler take any thing for litter, or take excessively (that is) more than a reasonable gain, having respect to the Markets) for hay, horse-bread, or any kind of provision for man or beast; Or if he living in a great Town or Village, being a through-fare, wherein is a common Baker, that hath been seven years at the Occupation dwelling, make his horse bread himself, otherwise he may make it himself; but whoever make it, he must make it due Assize and weight.

Crows.

The increase of Choughs, Crows, and Rooks, tends to scarcity, and raising of prices. Every man that hath land in the countrey, is to do his endeavour to destroy them. Any man with license of the Owner of the ground may destroy them, and then carry them away. If any Occupier of a mannour, house, or land of five pounds a year value refuse to pay for the taking of them upon his ground.

4 H. 5. 10.

Conspiracy of Victuallers, &c. 1 offence ten pounds.

To prevent which in Traffique, you are to inquire, 1. If any Victuallers have conspired that

that they will ſell their commodities but at certain prices; if it be done by a Corporation or Company, they loſe their liberty. Chap. 7.

2. If any man do at once keep above two thouſand ſheep of all ſorts, contrary to the Statute of 25 *H.* 8. 13. for the getting of ſo much of one thing into one hand tendeth to the enhanſing of prices. 2 Offence twenty pounds. 3 Offence forty pounds. 2 & 3 Ed. 6. 15. 1 Ingroſſing commodities.

3. If any buy or agree for any thing comming towards a fair, Market, or great Town; or moveth the Seller to raiſe the price; or doth diſſwade him from bringing in the commodities to be ſold in thoſe places, this is Fore-ſtalling. Foreſtalling.

4. If one buy up commodities, as Corn, Wine, Butter, Cheeſe, Fiſh, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs. Geeſe, Capons, Hens, Chickens, Pidgeons, Conies, or other dead victuals whatſoever, in any Fair or Market, and ſell them again there, or in any other place within four miles thereof, this is Regrating. Regrating.

5. If any get by buying or promiſe taking, otherwiſe than by demiſe of Land, or Tithe, any corn or grain, or dead victuals into his hands, with intent to ſell the ſame again, this is ingroſſing; and theſe offences are ſpecially named in the Commiſſion. Ingroſſing.

If any by himſelf or other, directly or indirectly buy any wheat or other grain, with intent to ſell the ſame in meal, flower, or otherwiſe, but by licenſe duly had ſo to do, under the hands and ſeals of five Juſtices in the Seſſions, he ſhall be taken for an *Ingroſſer*. Act. 23. *Oct.* 1650.

But the buying of Barley and Oats (without fore-

Chap. 7. fore-ſtalling) to make Malt and Oatmeal. And ſuch Victuallers of all ſorts, as Butchers, fiſhers, and the like, as buy victuals without fore-ſtalling, and ſell it again by Retail, according to their Trades. The buying of proviſion by Inholders and Victuallers, and ſpending of it in their houſes. The reſerving of Rent Corn on a Leaſe of Land; the buying of victuals to victuall a ſhip or fort; the buying of ſeed corn, when he doth ſell or put to ſale as much again; nor the tranſportation of corn from one Port to another by water; nor the buying of corn, fiſh, butter, or cheeſe, by a Badger, ſo he ſell it within a moneth; Nor the buying and ſelling of cattell by *Drovers*, (licenſed, and not abuſing their licenſe) ſo they ſell them forty miles off.

5 & 6 Ed. 6. 8.
2 Iac. 25.
21 Iac. 28.
5 Eliz. 5.
31 Eliz. 5.

He that is charged upon theſe Statutes muſt be charged within two years after the offence is done.

1 Iac. 22. If any have gotten into his hands, or ingroſſed any Oak-bark with intent to ſell the ſame again.

Double value. 5 Ed. 6. 14. 6 s. 8 d. a hide. 1 Iac. 22. If any have within two years brought any Oxen, Ronts, Steers, Kine, Heifers, Lambs, Sheep, Goats, or Kids living, and ſold them again within five weeks.

If any have foreſtalled any hide, or bought any hide out of the Market or Fair, unleſs it be of ſuch as killed beaſts for their own proviſion.

Double value. 9 & 4. E. 6. 21 Ia. 22. Value of the thing ſeaſed. 4. Eightfold damage. If any out of *London*, *Weſtminſter*, or *Southwark*, buy to ſell again, butter, or cheeſe, unleſs he ſell it again by retail, and then if it be above a wey of cheeſe, or barrell of butter, 21 *Jac.* 22.

If any Farmers ſelling butter and cheeſe in *London*,

London, ſell and weigh by other weights, then with the weights ſealed according to the Standard. Chap. 7.

If any pack up butter in Firkins for ſale, and do not ſet upon the Firkin when it is ſeaſoned a viſible mark of the weight of the core of the Firkin, or put up leſs then fifty ſix pound of neat butter in every Firkin, or leſs then fourteen pound in each pot, or put up old butter with new, or whay, or corrupt butter, with cream butter. Forfeit the thing or value of it, and 3. li. 6 d.

Or if any upon the Firkins of butter upon the ſale thereof, do not ſet the two firſt Letters of his name, or his own particular mark. 3 li. 4 d. Act 12 of March 1649.

If any pack up butter for ſale in an unſized cask, and do not ſet the juſt weight of the cask after the ſeaſoning viſibly upon it, and his own mark, or two firſt letters of his name.

But no man may be queſtioned for any of theſe things, beyond a year after the offence done. This Act to continue but till the 25. of March 1652.

Another thing that furthereth ſcarſity is Tranſportation.

If any tranſport beyond Sea by any Veſſell any Fullers earth, clay, Tobacco-pipe clay, or other earth or clay which may be uſed in fulling here, or any be privy to it, being owner of the ground, and do not diſcover it to a Juſtice of Peace. 5 Eliz. 5. 21 Jac. 28. 3 Jac. 11.

Another thing that furthereth ſcarcity is tranſportation. Tranſportation owner of the ſhip forfeit it, if he do know of it, owner of the Corn loſe the value of it. Maſter and Mariners loſe their goods, and imprisonment a year.

If any have tranſported any corn, malt, beer, cheeſe, or wood, unto any place beyond the Seas, except wheat be at one pound twelve ſhillings the quarter, Rye at one pound, Peaſe and beans at ſixteen ſhillings; barley or malt at ſixteen

Chap. 7. teen ſhillings, or if he have licenſe to do it, and exceed it, he loſeth three times as much, and is to be in priſon a year.

Weights and meaſures forfeit and burn the weights, &c. Fined in diſcretion, above 6 li. 8 d. for the firſt offence, for the ſecond 13 ſh. 4 d. for the third 20 ſ. and pillory 11 H. 7. 4. 28 H. 8. 15. R. 3. 13.

If any buy or ſell by unlawfull weights or meaſure, that are not like and equall with the Kings Standard. Or if one uſe double weights in buying and ſelling; the one to buy with, and the other to ſell with; and if any unjuſt weights or meaſures be found, they muſt be burnt.

The Tun of wine muſt be 252. gallons, the But of Malmſey 126. gallons, the Pipe 126. gallons, the Terrian or Poncheon 84. gallons, the Hogſ-head 63. gallons, the Teerce 41. gallons, the half Hogſ-head 31 gallons and half, and the Rounlet 15. gallons and half. So alſo of the meaſures of oyl, and none may ſell under this in meaſure, nor till their veſſels be gawged by the Kings Gawger.

Millard.

If any Millard take exceſſive Toll, he is to have the twentieth, or twenty fourth grain, according to the ſtrength of the water, and cuſtome of the place, if it be reaſonable.

The Millards Toll-diſh muſt be according to the Standard.

For the better underſtanding of this matter, theſe things are to be known. 1. That in the principall or ſhire-Town of every County there ought to be a Standard of Braſs for weights, and meaſures, according to the Standard of the Exchequer, there to remain with the chief officers of the Town, according to which every City Burrough, & market-town in the County, ought to make their common weights and meaſures to be marked by him that keepeth the Standard. 2. In every City, Burrough, and market-Town there

11 H. 4. 12. R. 7. 5.

there ought to be a common ballance, and a common bushel, and common weights sealed, and according to the Standard in the Shire-Town 3. No man within any City or Market-Town, ought to buy or sell with any weights or measures except they b sealed as aforesaid, nor out of Market Towns, except their weights and measures be equall with the Standard, if they must not be sealed, for so some think they must be. 4. Ale and Beer must be sold by one and the same measure. Chap. 7.

10 pound a City, 5 pound a Burrough 40 s. a market town.

27 Ed 3.10.
11 H 7.4.
3 H . 5.
Jac. 5.
Victualler.
5 H. 7.13.
R. 2.8.1

If the common Baker, Victualler, Brewer, and Tipler, do not keep the Assize of Bread and Beer, according to the price of corn.

If any by himself or other sell wares, and buy them again within three moneths at the same price, and know them to be the same; Or take more for any loan, giving day, then after the rate of ten pound for the hundred.

If any Broker have his hand in such a bargain.

Usury.
Treble value.
Fine. Imp.
As an aider in a Premunire.

If any take above 8 l. *per cent.* or helps forward in this contract, if it be under 10 l. *per cent.* it is not punishable, but the interest is lost.

13 Eliz. 8.
37 H. 8. 9.
21 Jac. 17.

To this we may adde as an appendix thereto, the offences concerning labourers, servants, and Apprentices, without the help of whom, Trades cannot be upheld. And the offences concerning high-wayes, which being impassable, it doth much interrupt the free Trade of the Kingdome. *Sect.* 21.

There are divers Laws concerning Labourers, and Artificers, and therein also of their relations as Masters and Servants, they may be reduced to these heads. 1. Some are forbidden to intermeddle

Labourers and Artificers.

Chap. 7. meddle with ſome works, wherein they have not been trained up. 2. They may not make combinations amongſt them for the limitation of their work. 3. They muſt do their work truly and fully. 4. They may not depart from their work before it be done. So that the Laws concerning theſe things have reſpect to three times. 1. Their comming together. 2. Their continuing together. 3. Their parting aſunder. The particulars hereof that you are to be charged with, follow.

Imprif. two dayes and a night in the ſtocks. 3 Eliz. 4. Imprif. till ſub miſſion.

If a Juſtice of Peace require ſuch perſons as are fit to work by day at Harveſt, for the preſerving thereof, and he refuſe.

If meet perſons required by the Juſtices of the Peace, to ſerve as Apprentices, or otherwiſe to husbandry, and other arts, refuſe to ſubmit to them.

The 11th.

If any unmarried woman of twelve years old, and under forty, being required by two Juſtices, to ſerve by the year, week, or day, for ſuch wages as they ſhall think fit, refuſe to obey.

The 12th.

Perſons compellable to ſerve.

If any perſon married, or unmarried under 30. years of age, having been brought up and required of them to ſerve in the trades of cloathing, Wool-weaving, Tucking, Fulling, Clothworking, Shearing, Dying, or in the Trades of a Tailour, Shoo-maker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Furrier, Currier, Sadler, Spurrier, Turner, Bowyer, Fletcher, Arrow-head-maker, Butcher, Cook, or Miller, and they refuſe to obey the order of the Juſtices of Peace herein, not having forty ſhillings a year in Lands, or forty pound in goods, or ſome Farm in Tillage, nor being re-

5 Eliz. 4.

retained

tained before by some other person, refuse so to do. Chap. 7.

If any man take upon him to exercise these Trades, not having been Apprentice to it seven years. Apprentice 10. pound.

If any man take an Apprentice contrary to Law, Or if any of the Tradesmen before named hire any Servant for less time then one year, or abuse his Servant, or give more wages then the Statutes appoint, or take the Servant comming out of anothers service, without a Testimoniall, or refuse to stand the order of the Justice of Peace in any matter of difference between him and his Servant, or put away a Servant without a quarters warning, though it be at the end of the Term, or will not pay the wages assessed at *Easter* Sessions by the Justices of Peace. Misdemeanour of Master and Servants 5 l. and Imprif. 10. dayes without Bail. 5. pound. Tenth l. by the Statut. and 5 Jac. 6. 5 Eliz. 4.

If any difference be between a Master and his Servant, or Apprentice.

And the Justice of Peace give order in it, and the Servant or Apprentice refuse to submit to it. Order.

If a Servant promise to serve, and doth not. Commitment till he be bound to serve. Imprif.

If the Servant refuse to serve for wages appointed by the Justices, or do not his work honestly, or promise to do so and do not, as if my Plowman drive my Cattel, or ride my horses to death, or refuse to do his work, or take greater wages then is appointed by the Statute, or if he make an assault or affray upon his Master, or him that hath the oversight of him. If Carders, Weavers, Sorters, or Spinners, imbezzle any wooll or yarn. Imprif. 21. dayes. Imprif. again, or other punishment then life or member, they and their receivers to give satisfaction, or be stocked or whipped, 5 Jac. 7.

If Labourers that work day work, do not so many houres by the day, *viz.* from *March* to *September* Imprif. month, and 3. pound.

Chap. 7.

September from 5 to 7. the rest of the year from day light to day light. Or if any Artificer or labourer depart before his work be finished.

Commitment till he serve, less he were with a Justice of Peace Mercif. till he get it, which if not done in 21. daves, to be punished as a va grant, but this is to be intended of the Servants in Husbandry, and the rest named before. 2 Ed. 6. 25. Clothier, 3 times as much, 6 d. and Commitment til payment double recompense, and commitment till paid, as by distress and sale.

If a Servant or Apprentice go away before the end of his tearm, without allowance of a Justice of Peace, or depart at the end of his tearm, not giving to his Master a quarters warning, or go away at the end of his time to any other part without a Testimoniall of his Master. Or if any Artificers or Labourers have conspired together, that they will not do any work but at such a rate, or for such a time, or in such a manner.

If the Clothier do not pay his Carder, Spinner, or other Labourer in good money, or if he deliver excessive weights to his workmen, &c. or the Carder, Weaver, or Spinner do not his duty in his Trade, or refuse to pay the wages assessed, 1 *Jac.* 16.

Sect. 22. Highways. Fine 10 li.

If the High-wayes and Bridges be not repaired, and made passable, the places wherein they are defective are to be indicted.

If the Constables and Church-wardens do not make Supravisors.

10 l. every day 6 plow 12 d. for a man. 2 and 3 Ph. & M 9. 5 Eliz 13. 18 Eliz. 9. 22 H. 8 4. Ten shil. & for other grounds adioyning to the grounds next to the high ways, 12 d. for every Rod.

If the Supravisors appointed do not their duty. Or the Parishioners with their Men and Plows, do not their work appointed. Or the Lord of the Soyle do not enlarge the way from Market to Market; so that no Bush, Dike, nor Tree, except great Trees, be within two hundred foot of each side thereof. Or the owners of the ground adioyning, do not scour, cut and cleanse the Ditches, Trees, and Bushes adjoyning.

And the High-wayes by the Statute of *Winchester*

chester ought to be forty foot in breadth. Chap. 7.

The next thing you shall enquire of, is, of persons of evill Name and Fame. *Sect.* 23.

Drunkards.

If any man be a common drunkard, or a common haunter of Ale-houses, especially if he spend much there, and have little: Or keep a house of common Bawdry; or usually frequent such lewd places, or the company of lewd persons, or commit Adultery, or Fornication, or have begotten a Bastard-child, or be the reputed Father of such a Child, or do before the birth thereof (being accused) convey himself away, or cause the Mother after the birth to convey her self away, and leave the child. Or if one be a common *Barretor*, that is, one that doth commonly stir, or maintain sutes of Law, or quarrels in any Courts, or in the Countrey, or be an *Evesdropper*, that is, one that doth hearken under Windows, or the like, to hear news, and so tell it abroad, to breed debate amongst neighbours; or if he be a night-walker, that is, one that sleepeth by day, and walketh by night; or one that doth commonly go in messages for Theeves, or is common Hedge-breaker, and after he hath been punished for it, doth offend again. All these are persons of ill behaviour.

Barretors.

5 Car. 4. 18 Eliz. 5.

You are to enquire of all such as having Licenses, do keep any Ale-houses, or Tipling-house, and be bound by Recognizance against the keeping of unlawfull games in their houses and for the keeping of good order, whether they have done any thing to break their Recognizances.

5 & 6 Ed. 6. 25.

Chap. 7.

Drunkenneſs.

The loathſome and odious ſin of drunkenneſſe, being the root and foundation of many other enormous ſins, as blood-ſhed, ſtabbing, murder, ſwearing, fornication, adultery, and ſuch like, to the great diſhonour of God and our Nation, overthrow of many good Arts and Trades, diſabling of divers workmen, and generall impoveriſhing of many good ſubjects, abuſively waſting the good creatures of God (as the Statute ſpeaks) is a ſore evill, and continueth and increaſeth ſtill.

You are to take care of the remedy.

If there be any *Inne* that is diſorderly, and a common Nuſance, or more then are needfull, to the hurt of ancient and wel-grounded *Innes*.

If there be, 1. Any that ſell Ale without Licenſe. 2. Any that being licenſed, ſell leſſe then one quart of the ſtrongeſt, and two quarts of the ſmalleſt for one penny. 3. If any that ſell by unlawfull meaſures. 4. If the Ale-men ſuffer any to ſit tipling in his houſe: And by this it is to be enquired, whether the Ale-houſe-keeper have forfeited his Recognizance. 5. If any have within ſix moneths laſt been drunk. 6. *If* any have within this time, ſit tipling in the Alehouſe, having no calling to be there.

For the *Inn*-keepers offence in ſome Caſes, he is diſabled for three years for keeping any Ale-houſe. For ſelling without licenſe, the ſecond offence is, the houſe of correction a moneth: the third offence is the houſe of correction till he be diſcharged at Quarter Seſſions. *If* any not having the grant of the Keepers of the Liberties, ſell Wine without licenſe of Juſtices at Quarter Seſſions.

Fine or ſuppreſs it upon an indictment, 20 ſhil. by ſale of goods after three dayes none paid, not paid in ſix days whipped. twenty ſh l. to be levied by diſtreſſe and ſale after ſix dayes, for want of diſtreſſe commitment till pay ment. Ten ſhillings to be levied as before. Five ſhillings within a week, to be levied with a warrey diſtreſs and ſale, or for want, ſix hours in ſtocks Good behaviour. Three ſhill. four pence to be had as before, in four dayes, or four houres in the ſtocks. 1 Jac 9. 4 Jac. 5. 21 Jac. 7. 4 Car. 5. 7 Ed. 6. 5. Wine. Five pound a day Fine.

Seſſ. 24. Muſters. Forty ſhill. impriſonment ten dayes.

The

The next Articles are touching such things which concern the strength of Country. Chap. 7.

If any commanded to muster before them that have authority, have absented themselves without cause, or have not brought their best Furniture and Arms to the Muster; or if any authorized to muster, have taken a reward to spare any; or if any that hath the charge to do it, doth not pay his souldiers wages, conduct or coat-money. Or if any Captain for gain license his souldiers to depart, or demand, or take more money then his due; or if any do willingly purloyn, or do away any horse or harnesse delivered to him, or wherewith he was set forth, and cannot shew how he did lose it.

Five pound imprisonment one month, put out of the Lac. Imprif. without bail till satisfaction. 4 & 5 P. & M. 4. 1 Ed. 6. 2.

The use of shooting in the long bow, (said to be in the Statute of 33 *H.* 8. 6. the surety, safegard, and continuall defence of this Realm, and an inestimable dread and terror to the enemies of the same) is to be inforced. You are therefore to see that the Bowyer out of *London*, *Westminster*, and *Southwark*, that makes a Bow of Ewe, must make four of other wood.

Archery 33 H. 8. 9. 8 Eliz. 10. 3 Car. 4.

That every one have bows and arrows according to the Statute of 33 *H.* 8. 9. That is, every one from seven to seventeen, his bow and two arrows; and from seventeen to sixty yeers old, his bow and four arrows.

6 s. 8 d. every month in default.

Masters and parents to pay for children and servants.

That they do use them, and exercise themselves and their children in shooting. That one under 24 yeers old, that doth not shoot at a standing prick, or being above, that doth not shoot any mark under two hundred and twenty yards with any prick-shaft or flight.

Imprison. till fine.

That no stranger use this exercise, or convey

Chap. 7. away theſe weapons without the Kings licenſe, 33 *H.*8. 9.

Buts 20 ſhill. a moneth.

And to ſee that every Tything have their Buts, and to preſent the defaults. And the better to hold them to this exerciſe, to reſtrain them from other exerciſes which are prohibited, You are therefore to enquire

Gun.. Ten pounds to be eſtreated into the Exchequer. Impriſonment till payment.

If any one keep in his houſe, or carry any Hand-gun, not a yard in the ſtock and gun, or any Hag but, or Demi-hawk, not three quarters of a yard in the ſtock and gun; or (not having in his wives or his own right an hundred pounds a year) carry or have in his journey any croſſe-bow bent, or Hand-gun, or Hag but, or Demi-hawk charged with powder, &c. except in time of war, or by himſelf or ſervant ſhoots in ſuch a gun at any thing but a bank, or for defence of himſelf or his houſe within, or within a quarter of a mile of a City, or a Market-town, unleſs it be one licenſed to kill Hawkes meat; or within five miles of the Sea.

Ten pound 33 H. 8. 6. 2 & 3 Ed. 6. 14. 33 Eliz. 10. 3 Jac. 27.

Or if any under the degree of a Lord of the Parliament, ſhoot in any Hand-gun, within any City or Town, at any fowl or other mark, upon any Church, houſe, or dove-cote, or any other place, with any hail-ſhot, or more pellets then one at one time, or at any Pheaſants, Partridges, &c. And yet publick officers for the execution of Juſtice, may carry and uſe guns.

May-poles Ord. 6 April 1644.

Concerning matters of pleaſure.

If any May-poles be ſet up or continued, the Pariſh is, or the officers are to forfeit 5 s. a week till it be taken down.

If any lay-man that hath not 40 s. a year in Lands, keep hounds, and use hunting, 13 *R.* 2. 13. Chap. 7.

If any one have hawked or hunted with his Spaniels in any other mans grounds where any eared or codded corn hath been standing or growing, before it hath been put in shocks, without the consent of the owner of the ground: or hawk between the first of *July* and last of *Aug.* or (not having ten pounds in his own or wives right in fee, or thirty pounds a year for life above all charges, or two hundred pounds in goods; or not being the son of Knight, or greater person, or son and heir of an Esquier) have kept a Grey-hound, or setting-dog; or have with any Gun, Bow, or Net, or otherwise, killed or taken Pheasant, Partridge, House-dove, Pigeon, Hearn, Mallard, Duck, Wigeon, Growth, Heath-cock, or any such fowl, or kill or take Hare with Hare-pipes or otherwise, or kill or trace any Hare in the snow, or kill any Partridge, or Pheasant, between *July* 1. and *August* 31. or take or spoil out of or in the nest, the eggs of any Pheasant, Partridge, Swan, or wild-fowl used to be eaten, but he that hath forty pounds in Fee, or Freehold, or fourscore pounds in Lease, or is worth in goods four hundred pounds: or his servants may take Pheasants or Partridges in the day time in his own grounds between *Michaelmas* and *Christmas*.

Hawking, hunting, killing of Hares, Pheasants, and the like 40 shill. commitment. 3 months or 3 l. 4 shill. for every hawking, and 20 s. a Pheasant or a Partridge 7 Jac. 11 Imprisonment till 40 shill. paid, 1 Jac. 27. Imprisonment till 20 shill. be paid, for Pheasant ten shill. for Partridge five, be bound not to do so again. Commitment three moneths, unless he pay the money forthwith to the Church-Wardens. Or after one moneths commitment to give the Recognizance of 20 l. not to do so again. Imprisonment two moneths. Treble damages Good behaviour 2 years surety for it 1 Jac. 7. 7 Jac. 11.

23 Eliz. 10. 25 H. 8. 11. 14 H. 8. 10. 11 H. 7. 17. 5 Eliz. 21.

If any destroy the head of any Pond; & take away the fish, or hunt in any warren, or park in-

Chap. 7. cloſed, and take away or ſpoil the game, or take away Hawks or their Egges.

If any uſe any Guns, or Bows, or kill Deer or Conies, or keep Hays and purſe-nets, Ferrets, or Cony-dogges, unleſſe he have 40 l. inheritance *per annum*, or is worth 200 l. in goods, or have warren and ground incloſed, the profit whereof is worth 40 l. *per annum*. But he that hath an 100 l. a year, may keep them for his own uſe.

Unlawful games 40 ſhill. a day 33 H. 8. 9. 11 H. 4. 4. 17 Ed 3. 4. 33 H. 8. 9.

If any for his private gain, keep a houſe or place of unlawful games, as Bouls, Coits, Cloiſh, Kailes, half-bouls, Tennis, Dicing, Tables, Carding, Logate, Shove-groat, caſting the ſtone, kails, hand-bal, foot-ball, claſh, quick-boord, or any other unlawfull game now invented, or hereafter to be invented, Bear-baiting, Bul-baiting, ſtage-plaies, 1 *Car.* 1.

6 ſhill. 8 d. a time.

If any uſe or haunt ſuch a houſe, and there playeth at any one of theſe games. Some think all games, except ſhooting, are unlawfull.

10 ſhill. a time.

If any artificers, Craftſman of any Handicraft, Husbandmen, Labourers, Mariners, Fiſhermen, Watermen, Apprentices, Servant at Husbandry, Journey-men, or Servant of Artificer, Mariners, Fiſher-men, or Water-men, or any ſerving-man, play in any place at any ſuch game, out of *Chriſtmas* only, and in their houſes, or ſervants in their Maſt. houſes, & by their Maſters licenſe, or ſerving-men, within the precincts of their Maſters houſe, and by their Maſters licenſe.

6 ſhill. 8 d a time.

If any perſon play at Bowls in an open place out of his Garden or Orchard.

Any Juſtice of Peace may enter into the places they ſuſpect to keep ſuch houſes, or where men

men play at ſuch games; and finding it, may im- Chap. 7.
priſon the keeper of the place till he give ſure-
ty no longer ſo to do: and he may impriſon the
gameſters without bail, till they be bound in
ſuch ſum as he ſhall think fit, not to play again.

The Articles concerning the Poor follow. *Sect.* 25.

The poor are to be provided for. And for this Poor.
you are to enquire, if the Over-ſeers & Church-
wardens do their duty in taking care for them,
according to the Statute of 43 *El.* 2. And if Pa-
rents or children that are able, do relieve their
impotent Parents or Children, according to the
Juſtices of Peace Order at the Quarter Seſſions.

If any run away, and leave their charge upon To be puniſhed as incorrigible Roome, to be ſent to Bride-well till ſecurity, to ſave the Pariſh. 7 Ja. 4.
the Pariſh, or threaten ſo to do.

If any refuſe Apprentices being put upon them
by the Overſeer, Church-wardens, and Juſtices
of Peace.

To this head we may reduce the Law againſt
Cottages and Inmates, being made for the pre-
vention of the increaſe of the poor.

If any build up any new houſe, or convert Cottage ten pounds erecting forty ſhill. continuing.
any old houſe, not before a dwelling houſe, to
a Cottage, and do not lay four Acres of Land
near adjoyning to it, to be perpetually uſed with
it: or if any do continue ſuch an unlawfull houſe
ſo built, for one moneth: but Cottages in Market
Towns, or about Mines or Quarrs, or where
Brick or Tile is made, not being above a mile
from the works, and uſed to that end: or for a
common Herds man, or Keeper, or Shepherd,
or built by the Order of Seſſions, are not for-
bidden. The building or converſion muſt be af- 31 Eliz. 7.
ter this Statute. But if an ancient Cottage whol-
ly be decayed and reedified, this is the offence.

Chap. 7.

Inmates ten shill.

If any take in any Inmate more than one houſhold into a Cottage: or if any do continue ſuch an inmate for one moneth. But ſuch as are ſo placed by Order of Seſſions, with leave of the Lord, and by the charge of the Pariſh, are not forbidden by the Statute. Herein know, No man is to be accounted an Inmate, or Under-ſitter, but he that is in a Cottage. 2. Such cottages as were before the Statute, as well as thoſe which are after; and ſuch as have four Acres annexed, as well as thoſe which have not, are within this Statute 3. Inmates within Cities and burroughs are within this Statute alſo, as well as others, *Cook. 2 part. Inſt. 739*

31 El. 7.

Sect. 26.

The next thing concerneth the preſervation and breed of things.

Calves.

twenty ſhilling moneth for every Cow or Calf 2 & 3 P. M. 3. 21. Forfeit the horſe, 32 H. 8. 13. 3 El. 8.

If any (feeding for the moſt part of the year above one hundred and twenty ſheer-ſheep on his Grounds, that are meet for milch Kine, and wherein no perſon hath any Common) have not for each ſixty ſuch ſheep, reared one Calf during the time of his keeping the ſheep; or if he feeding on his ſeverall paſtures above 20 Oxen, Roats, Steers, Skrubs, Heifers, or Kine, have not for every ſuch ten beaſts kept one milch Cow; and for every two Kine reard up and weaned yearly one Calf, except it chance to die. But this law is not to be extended to the Cattel a man doth ſpend in his own houſe. Or one keep ſtoned horſes upon Commons of two years old, and not fourteen handfuls high; and any horſe that is ſo, any man may ſeiz and have, after he hath called the Conſtable and three of the Neighbours to meaſure him. But if a horſe be broken in, or it be a place where no

Mares

Mares are kept, this is not puniſhable. Chap. 7.

If any between the Nativity of the Virgin and Saint *Martin*, take any Salmons in any River, or take young Salmons in any River between *September* 8. and *November* 11. or at Mil-pools between the midſt of *April* and *Midſummer*: or have taken or deſtroyed any fry of fiſh in any water, or have taken any fiſh out of ſeaſon (that is) being keepers or ſhedders: or taken any Pickerel under ten, Salmon under ſixteen, Trout under eight, or Barbell under twelve inches: or have taken fiſh in any water with a Net, whereof every meſh is not two inches and an half broad, within five miles of the Sea, with a draw-net not an inch and half from knot to knot.

Deſtroying the ſpawn of fiſh. Burn the Nets, impr. a quarter of a year, under conſervators hold the firſt upon Indictment. But there muſt be a year paſt, ere it can be puniſhed here; for this time is given to the Leet to puniſh it. Forfeit the Net and ten ſhill. levied by diſtreſs and ſale, 17 R. 2. 9 Weſtm. 2. 48. 1 El. 17. 14 El. 11. 1 Jac. 25. 3 Jac. 12 8 Car. 4.

But the taking of fiſh by angling: or the taking of Smelts, Loches, Minhews, Binheads, Gudgeons, or Eels, where they have been uſed to be taken, is not prohibited by any law.

If any fleſh be dreſſed, or killed in a common victualling-houſe in lent, within one year laſt paſt.

Lent, Seize it and give it to the poor to ſhift. one month's Imprisonment without bail. 32 ſh. 4 d. 1 Ia. 25. 3 Car. 4. 2 El. 527. El. 5.

If men without licenſe eat fleſh on the days appointed for fiſh (whereof *Wedneſday* is none) within one year laſt paſt.

If any in whoſe houſe it is eaten doth not diſcloſe it to him that hath power to puniſh it.

There are certain offences and certain Laws that do make them ſo, which becauſe we do not find they do at all belong to the Conuſance of this Court, albeit ſome of them have been uſually given in Charge, there we do purpoſely paſſe over; of this ſort are the Statutes of Maintenance *Sect.* 27.

Chap. 8. nance & Champerty, 32 *H.*8. 9. of Sheriffs, 1 *Ed.* 4. 2. 4 *Ed.* 3. 10. of the clerk of the market, 13 *R.* 2. 4 of Coopers, 23 *H* 8. 4. 31 *El.* 8. of Woollen yarn, 7 *Ed.* 4. 3. of cloth, 43 *El.* 10. 27 *H.* 8. 12, of servants wasting their dead masters goods, 33 *H.* 6. 1. 4 *Ja* 2, of bows, 12 *Ed.* 4. 2. 1 *R.* 3. 13. for selling of cattel, 3 *&* 4 *Ed.* 6. 19. of bringing in forrein wares, 5 *El.* 7. of prices of bows. 8 *El.* 10. of forging of Deeds, 5 *El.* 14. And some others.

The last thing we shall mind you of is, touching Presentments, that in those you make, you do set down a certainty of the persons presented with the time and place, and manner of the fact: otherwise let the matter be what it will for which you do present any man, your presentment may become void, and of little or no effect, for defect in the manner of making it, and setting it down, will make it void.

CHAP. VIII.

Of their Proceeding in these Courts.

Sect. 1. The manner and order of proceeding in these Courts for the convicting and perishing of offenders.

THe manner and order of proceeding in the Generall Quarter Sessions, and in a speciall and particular Sessions, is for the most part one, and in most cases after one way, for their power by the commission is alike in all offences by the common law; but their power by Acts of Parliament is after a divers manner: for some Statutes run thus; That they shall enquire only; see 23 *Eliz.* 1, 2, 3. 1 *Eliz* 23. 5 *Eliz.* 1. 13 *Eliz.* 3. Touching offences about the service of God, comming to Church, or establishment of Religion, and others.

Church.

Some that they shall enquire and punish.

Some

Chap. 8.

Some that they ſhall enquire and determine. 2 *H.* 6. 4. About wines, 8 *H.* 5. 3. About gilding and the fineſſe of ſilver.

Wines. Gilding.

Some that they ſhall hear and determine; and others enquire, hear and determine, which are all one. So 2 *&* 3 *Ph. & M.* 3. About milch Kine, 36 *Eliz.* 4. About Rogues, 2 *&* 3 *Ph. & M.* 7. 31 *Eliz.* 12. About horſes ſold and toll'd in Fairs. 5 *Eliz.* 21. About fiſhing and hunting in a Park. 17 *Eliz.* 12. About under-ſheriffs and their Officers, 1 *Eliz.* 17. About the deſtroying of the breed of fiſh. 2 *&* 3 *Ed.* 6. 15. About the conſpiracy of Victuallers, &c. 5 *Eliz.* 9. About perjury, 1 *Jac.* 22. About Tanners, &c. 27 *Eliz.* 7. About return of Jurors, 23 *Eliz.* 10. About Pheaſants, 3 *Eliz.* 3. About tranſportation of ſheep, 20 *H.* 6. 9. About Souldiers, 33 *H.* 9. 9. About Archery, 23 *H.* 6. 0. About ſheriffs, 13 *R.* 2. 8. About Victuallers, 2 *H.* 8. 7. About Coroners. 11 *H.* 7. 8. About weights, 23 *H.* 8. 14. About wine, *&* *Phil & Mar.* 5. About tranſportation of corn and proviſion.

Milch kine. Rogues, Horſes. Fiſhing Officers Breed of fiſh Conſpiracy of Victuallers Perjury. Tanners, Return of Jurors, Pheaſants Tranſportation. Souldiers, Archery Sheriffs, Victuallers Coroners, Weights, Wine Tranſportation.

Some be that they ſhall hear and determine by inquiſition, preſentment, bill, or information before them, and examination of two lawfull witneſſes, or by any of theſe wayes, according to their diſcretion, &c. ſo are 5 *&* 6 *Ed.* 6. 14. 5 *Eliz.* 12. about ingroſſers. To this effect is, 2 *&* 3 *Ed.* 6. 10. about Malt. 5 *Eliz.* 5. about fiſh.

Ingroſſers Malt, Fiſh.

Some run thus, That they ſhall examine, hear and determine every ſuch default [or every ſuch forfeiture] upon preſentment thereof had before them in the ſeſſions, &c. So 12 *Ed.* 4. 9. About an Eſcheator. And to puniſh the offendor by impriſonment, or otherwiſe, according to

Chap. 8. to their diſcretion, &c. So is 28 *H.* 8. 14. About wines.

Wines. Some that they ſhall hear and determine, &c. And alſo by their diſcretion examine all perſons ſuſpect to offend againſt this Act. 1 *Jac.* 22.

Tanners. about Tanners.

Some thus, That they ſhall hear and determine by their diſcretion, as well by examination as otherwiſe, the defaults, &c. So is 17 *Ed.*

Tile. 4. 4. about making of tile.

Some that they ſhall by examination or Enquiry hear and determine, and ſet fine according to their diſcretion, &c. So 11 *H.* 7. 4 A-

Weights. bout weights

Or thus, ſhall enquire and determine as well by preſentment as examination, 1 *H.* 8. 7.

Or thus, that Juſtices and Stewards of Leets ſhall enqurve, and the preſentment in the Leet ſhall be certified to the next Quarter Seſſions. And the Juſtices ſhall hear and determine every ſuch preſentment before themſelves or Steward by examination or otherwiſe. 33 *H.* 8.

Shoo-horſes. 13. About ſhoned horſes.

Others thus, that they being convict by witneſſes, or confeſſion taken before the Juſtices of Peace in their generall Seſſions, ſhall ſuffer any corporall puniſhment but death, as they ſhall appoint. And that they ſhall call by proceſſe or otherwiſe to Seſſions the perſons ſuſpect, or commit them to ward, or upon bail till the

Tokens. next Seſſions. So is 33 *H.* 8. 1. About falſe tokens.

Others thus, That the Juſtices of Peace they may attend, ſurvey the offences againſt this Statute; and if they find any, ſhall make due puniſh-

puniſhment thereof according to the contents of this Statute. So is 17 *R.* 2. 9. About Salmons. Chap. 8. Salmons.

Others thus, upon pain to be grievouſly puniſhed, according to the Juſtices diſcretion, they ſhall judge them to the ſame bodily puniſhment as the offence requireth. And ſhall do execution thereof 13 *R.* 2. 8.

Others thus, that they upon the party grieved his complaint, ſhall make out proceſſe to the Sheriff, &c. as in an Action of Treſpaſſe, to appear before them to anſwer the matter. See 11 *H.* 7, 15. about Sheriffs. Sheriffs.

Others thus, that they ſhall at their Seſſions Indict and try the offenders by the uſuall courſe of trials and indictments in like caſes, See 39. *Eliz.* 11.

Others thus, that the Sheriff ſhall certifie all indictments taken before him, in his turn, to the Juſtices of Peace. And they ſhall proceed as if they were taken before themſelves, &c.

Or thus, that the Juſtices ſhall charge them that appear before them, that they duly enquire and put in execution the effect of the premiſes in due time, ſo that this act may be fully executed, 24 *H.* 8 10.

Others thus, that they ſhall examine the treſpaſſers in this caſe, and do execution of them that be found faulty by Inqueſt, or by examination to be made by the Judges in manner aforeſaid. See 8 *H.* 6 5. about Woollen yarn. Woollen yarn.

Others thus, that they in their Seſſions may enquire by the oath of 12 men of thoſe offences, and their Preſentment ſhall be of the ſame force, as thoſe in the Kings Bench are; ſee 7 *Ed.* 6. 5. about wines. Wines.

Others

Chap. 8. Others thus, that these offences be enquired, and presented before the Justices of Peace, in their quarter sessions, and thereupon such due proceeding shall be against the offender, as in such cases, by the Laws of the Realm, is used,

Drunkenness. 4 *Jac.* 5. about Drunkennesse.

Others thus, that the Justices in their quarter sessions, or any two or more out of the sessions, shall hear, punish and determine, see 1 *Jac.* 27.

Pheasents. about Pheasants.

Others thus, that they shall enquire by Oath of twelve men, or by information; and make such like Process upon presentment, or information, as they use to do upon Presentment of

Sheep. trespass, 25 *H.* 8. 12. about keeping sheep.

Some thus, for Felonies, That the Justices having power to determine Felonies, shall hear such offences, and execute the offender. Or thus, they shall be punished as other Felons, or suffer death as other Felons by the Law. 39 *Eliz.* 17. 8 *Eliz.* 3. 1 *&* 2 *Ph. & Ma.* 4. 21 *H.* 8. 1 *J.* 31.

Sect. 2. For the opening of which, these rules must be

Inquisition, see above, ch. 5. taken notice of.

Sect. 4. 1. One justice of Peace cannot take an inquisition of a Statute, unless the Statute doth especially enable him to it, as in case of a forcible

Forcible entry. entry, &c.

Examine. 2. Where the Statute giveth power to examine only, it seemeth this includeth *Oyèr* and *Terminer*, And though it say not what person it shall examine, yet it seems they may examine parties as well as witnesses. See *Dal. J. P.* 91. But Quere.

Enquiry. 3. Where a Statute doth enable the Justices only

only to enquire, there in some cases they are to take an enquiry, and certifie it to some higher Court, as in case of some great offences, as in 1 *El.* 2. 3. and others. Chap. 8.

4. Where the Statute doth enable them to hear and determine an offence, this doth comprehend all the necessary wayes and means of doing of it; as information, hearing, presentment, granting process, giving Judgement and execution; and therefore that the addition of these things are superfluous, and this is the largest power of all. But in this case it is held, it must be in one of their sessions, and in the ordinary way of triall, and that the Justices cannot do it out of the Sessions, *Dal J. P. f.* 29. Oyer and Terminer. Sessions.

5. Where the matter is to be tried by witnesses only, there it seems two witnesses are requisite; but if it be tried by Jury, there one witnesse will serve, & sometimes none, *Plow.* 12. Witnesses.

6. The triall by examination of offenders, or witnesses alone without a Jury, is not permitted to Justices of peace, but in case where the Statute doth either in general refer the triall to their discretion, or else they are especially enabled to take examinations, otherwise it must be by Jury. Triall by examination of Witnesses.

7. Where a Statute speaks of proof, it shall be taken for proof by witnesses only, yet some say by a Jury, *Dal. J. P. f.* 191. *Young* in his *Præcognita*. Proof.

8. Where the Statute doth enable Justices to a triall according to their discretion, there it seemes they may take the examination of witnesses upon oath, *Dal. J. P.* 120. 16. *Young* in his *Præcognita* to his Book. *Dal. J. P.* 191. *Lamb.* 535, 536. Oath.

9. Where

Chap. 10.

Tryall Indictment.

9. Where the Statute doth not direct the way of Triall, there it must be by the ordinary way of Indictment, according to the common law, *Dalt. J. P.* 193. 73. *Young.*

Sessions.

10. That which may be tryed another way out of the sessions, the Justices may try by Indictment in the sessions at their choice.

Oath.

11. When the Statute speaks of examination of witnesses, or other accusation or proof, though it say not upon oath, yet it seems it must be so, *Dal. J. P.* 192.

Witnesses.

12. Where a statute speaks of witnesses, it cannot be with lesse then two, unlesse the triall be by Jury, where it may be, one will serve, *Dal. J. P.* 192.

CHAP. IX.

Sect. 3.

But the whole proceeding in an ordinary way lieth in three things. 1. In Information. 2. In Hearing or Triall. 3. In giving Judgement, and doing execution

CHAP. X.

Of Information.

Presentment.

As to the matter of Information, these things are to be known.

1. That the Judges of these Courts take knowledge of offences many wayes. As 1. Either by the presentment of some publick officer, steward of a Leet, supravisor of High-wayes, Constable, or the like. 2 Or by the presentment of the Jury. 3. Or by their own view. 4. Or by the information of private persons, so is the common informer. As to the first of these, these things must be known. 1. A steward is to certifie to the Justices

Certificate & presentment.

ſtices of peace the defects of ſtone horſes that go in commons upon 32 *H.* 8. 13. A Sheriff, the indictment found before him. A ſearcher of tile, defects of tile-making, upon 17 *Ed.* 4. A conſtable to certifie the defects of execution upon the ſtature of *Wincheſter* 13. *chap.* Chap. 10

Conſtables, Church wardens, Head-boroughs, Tithing-men, and Alecunners, muſt preſent upon their oaths all offenders by drunkenneſs or tipling within 4 *Jac.* 5. 2. Theſe are not ſent to the Grand Jury to be found by them as Indictments prepared are, but are a perfect information of themſelves, to which the party accuſed muſt anſwer.

For the ſecond, theſe things muſt be known. *Sect.* 4. Indictment. Preſentment.

1. The information given by the Jury is two ways, by indictment or preſentment; how theſe agree and differ, and many other things of this ſubject, ſee in *Lib.* 2. 2. That the Juſtices are to receive in this ſuch indictments as are within their conuſance, and none others. 3. They muſt *ex Officio*, ſee that they be well drawn for matter and form.

For the third, theſe things muſt be known: 1. A Juſtice of peace of his own view may preſent the defaults of the high-wayes. *Sect.* 5: Juſtice of Peace. Preſentment of high wayes.

For the fourth, theſe things, 1. That any man may inform or give in evidence againſt theſe offenders without any danger at all.

And touching the common informer, theſe things muſt be known. 1. None are to uſe this but ſuch as are allowed upon record. 2. That none is to be admitted to this office, that hath been once turned out of the ſame by the Court. *Sect.* 6. Common informer.

3. They may not inform againſt any man for

Chap. 11 an offence done beyond the time limited in the Statute of 31 *Eliz.* 4. He may not inform in any of the Courts of *Weſtminſter*, but muſt bring his information in the County where the offence was done. And for this purpoſe, before his information be received and recorded, he muſt take his oath before the Juſtices of Peace, that the offence was not done in any other County, & that it was done within a year of the time wherein the Information is laid. And this oath muſt be entred of Record, 21 *Jac.* 4.

CHAP. XI.

Of Hearing, and Triall

FOR the ſecond thing, *Hearing and Triall.* In this are included theſe things, 1. The calling in of the party. 2. His appearance and defence.

Sect. 1. *Proceſs.* For the Firſt, there are Proceſs to bring in the party in caſe he ſtand out, and come not in to anſwer the accuſation. And theſe proceſs are 1. In caſe of indictment, or otherwiſe; upon indictments of Treaſon or Felony, the Proceſs are 1. a *Capias*, 2. an *Alias Capias*, 3. an *Exigi facias*. Upon Indictments for other offences, not being Felony, they are, 1. A *venire facias*: And if thereupon the party be returned ſufficient, then 2. a *Diſtringas*, and then *Proceſs infinite* till he come in. But if a *Nihil habet* be returned at firſt againſt him, then 2. a *Capias*. 3. an *Alias capias*. 4. a *pluries capias*. 5. an *Exigi facias*. *Young. fol.* 133. The proceſs upon any Indictment or Preſentment for an offence againſt a Statute, ſhall be ſuch as the Statute doth direct, if it direct any, otherwiſe the ordinary proceſſe of the common Law. There

There are other Proceſſes, as that by which the Seſſions is called, *Fieri facias*, and *Capias* after judgement for the doing of execution, 5 & 6. *Ed.* 6. 14. And in ſome ſpeciall caſes *Elegit*. See 31 *Eliz.* 7. Chap. 11

But touching all Proceſs, theſe Rules muſt be heeded. 1. No Proceſs do uſually iſſue forth of this Court, but upon the Inquiſition of twelve men, or return of a ſworn Officer, ſome ſpeciall caſes excepted. 2. They are not granted upon a bare ſuggeſtion, by word or writing. 3 Nor can any Proceſs iſſue forth but *Sedente curiâ: Lamb ch.* 6. 5 *Eliz.* 12. 5 *Ed.* 6. 14. Sometimes he comes into the Seſſions by Recognizance, being thereby bound to appear there. For all Recognizances that concern the Seſſions, are to be certified to the next Quarter Seſſions after they are taken, when and where the party is to be called upon them. And if he do appear, his appearance is to be recorded. And the ſame, or his default of appearance in caſe he do not appear, is to be certified, 3 *H.* 17. 1. 5 & 6 *Ed.* 6. 25. *Lamb. I. P.* 389. Recognizance. Certificate. Appearance.

For if a Recognizance be forfeit by default of appearance, or by breach of the condition, the Juſtices of Peace cannot award any Proceſs upon it, but muſt certifie the Recognizance and the cauſe of forfeiture into ſome of the Courts of *Record* at *Weſtminſter*, to the end that ſome proceſs may iſſue out from thence. *Dalt. I. P.* 213. Recognizance. Proceſs. Certificate.

The party bound ſhall do well if he have a *Superſedeas* from above to diſcharge him, to appear with it at the Seſſions, and pray an allowance of it; for it is doubted, whether his ſending of it be a diſcharge of his appearance, *Dalt. I. P.* 173. *Lamb. I. P.* 113. Superſedeas.

Chap. 12

If one be bound to appear at the Quarter Sessions, he must appear there: If it be at the Sessions, he may appear at any Sessions. *Dalt. I. P.* 237.

Sect. 2. Appearance. Discharge. Certiorari.

And if a *Certiorari* come to remove the *Recognizance* into the Chancery, or Kings Bench before the day, this will discharge the appearance. *Dalt. J. P.* 237.

Confession. Traverse.

When the party doth come in, he must after his appearance, make his defence, either he must confess and submit to the Fine, or traverse the charge; and then he is to be bound to prosecute it, unless it be tried presently, which must be done by a petit Jury, and this called an Arraignment, or Triall. And if they passe for the King, and find him guilty of the offence, or he confesseth it, or stand out an outlawry that he be convicted, then are the Justices to give judgement, and see execution done according to Law.

Arraignment.

Conviction

CHAP. XII.

Of Judgement and Execution.

FOr the third thing, giving judgement and doing execution.

In the giving of judgement and doing execution, these things are to be known.

Sect. 1. Judgement.

1. They must adjudge men according to the Law, that is, where the Law appointeth a corporall punishment, they may not inflict a pecuniary punishment. *Et sic è converso.* And regularly where the Law appointeth one kind of corporall punishment, or one degree of pecuniary punishment, they may not change it, and inflict another.

Sect. 2. Punishment.

2. They have power to inflict corporall punish-

ments

ment, as death, cutting off the parts of the body, burning or marking, impriſoning, whipping, or ſtocking, or cucking ſtool. Chap. 13

3. Pecuniary, as loſs of offices, lands or goods, fines, iſſues, amercements.

4. In fame, as to brand a man that is perjured, that his Teſtimoniall ſhall be of no credit afwards.

CHAP. XIII.

Of Fines and Amercements.

Fines and Amerciaments.

TOuching Fines and Amercements theſe things are to be taken notice of.

1. That no Fine or Amercement can be ſet but *Sedente curiâ.*

2. All Fines and Amercements that are in their diſcretion, muſt be reaſonable, having regard to the offence, 34 *Ed.* 3. 1.

3. Where a Statute doth appoint a certain penalty for an offence, there regularly no other can be impoſed, nor can the Juſtices of Peace mitigate it after the party is convicted by confeſſion, or otherwiſe. But if the party indicted before his conviction come into the Court, and proteſt his innocency, yet, *quia noluit placitare eum An. Rege*, he put himſelf to the grace of the court, the court may impoſe a moderate Fine, & by order forbear the proſecution. And the common practiſe (it ſeems) is, that if an information or indictment be againſt a man for drunkenneſs, tipling, ſelling ale without licenſe, ſwearing, driving cattell on the Sabbath day, or any other offence againſt a Law that gives an expreſs penalty, if the offender come in and confeſs it, & put himſelf upon the mercy of the court, they

Chap. 14 do fine at their discretion: But if he be convict by verdict, or oath of Witnesses, the Justices of peace cannot discharge him of any part of the forfeiture. And therefore if a man be convict so for selling an hundred measures of beer under measure, he must pay all the penalty. *Resolved of the Judges. temp. Car.* R. 10.

Imprisoned. 4. The party is to be imprisoned till he pay his fine, if it be a fine at common Law: For to every such fine, imprisonment is incident; yet in this case the Justices may take a recognizance for payment of it, and deliver the party out of prison. Or they may cause the Clerk of the Peace to make Estreats of all the fines and Amercements, and transact them into the Exchequer by Indenture, keeping one part to themselves, 5 *El.* 4. *Sed quere* whether now they may not require the Sheriff to levy them, 14 *R.* 2. 11. By which they are to have duplicates indented of the Estreats, and the Sheriff is to have one part to levy the Fines, &c. by them.

Clerk of the Peace. Estreats.

CHAP. XIV.

Of an Indictment and Presentment.

AN Indictment is a Bill or Declaration formally made, containing an accusation of a man for some offence committed, by a Jury to be found of purpose to put the offender to answer to it. Or it is the verdict of the Jurors, grounded upon the accusation of a third person, the which the Jurors are charged to enquire of. Or it is an accusation found by an inquest of men upon their Oaths. And this sometimes is called a Presentment, which differs little from that, being defined to be an enquiry finding some

Presentment what.

some offence against the Common-wealth. Or a meer information or denuntiation of the Jurors themselves, or of some other officers, without the accusation or information of another to the Justices that have power to punish the offence done contrary to the Law, *Cook super Lit.* 126, 127. *Stamford Lamb.* 485. Chap. 11

Information what.

An Information is the accusation of the party offending by a stranger before the Justices of the Peace, for the Lord Protector, or for his own benefit, to the intent to put the party to answer.

Appeale what.

Appeal is the plaint of one man against another, of purpose to attaint him of some offence.

The Indictment or Presentment, is the chief ground-work whereupon the whole triall is afterwards to be built.

In every crime seven things are to be considered, *viz.* the cause, person, place, time, quality, quantity, and event.

General Rules. (2.)

Every Indictment, Presentment, &c. (especially if it concern a mans life) being in the nature of a Declaration for the Lord Protector against the offender, to which the party must answer, and upon which the Court must judge, must contain verity, certainty, and perspicuity, certain ought the Declaration to be, certain the foundation, certain the matter which is brought into judgement. For an Indictment cannot be made good by implication. *Stamf.* 96.

(3)

The Indictment is to prepare for a triall. For the Triall it self is the issue upon the Indictment.

Wherein an Indictment, Presentment, or Information shall be said to be good or not.

Many things are requisite to make a good indictment, presentment, or information.

Chap. 14

1. As that the party indicting, &c. be comperent: 2. That the indictment be brought in due time. 3. That the matter be indictable. 4. That the indictment be for manner and matter substantiall. And if it be defective in any of these particulars, it may be quashed. *Cook.* 5. 120, 121.

1. For the persons by whom, and who may be Indictors or Informers.

Any honest man may follow an Indictment, and any one that is a competent witness, may be a competent indictor.

But it seems such persons as are infamous, may not be indictors. And therefore 11 *H.* 4. 41. one was discharged of an indictment because one of his indictors was out-lawed for Felony. *Young* 116. *Stamf.* 88.

Such as have for misdemeanour in their common informing, been put out by order of the Courts of Justice, cannot be an informer. *Stat.* 31 *Eliz. ch.* 5.

2. For the person against whom it is brought, and who may be Indicted.

Any person may be indicted that lives within the County, or that have lived there, or that have committed an offence therein. And women covert, infants, and all such like-other persons, who may commit an offence against a law, (if they be not excepted in the Law) may be indicted for that offence as well as others. *Cook.* 11. 61. *Dier.* 104. 13.

A Justice of Peace as hath been said may be indicted at the Sessions of his own County, before his fellow-Justices. *Lamb.* 631. Quere this.

3. For the time wherein it is brought, and in what time the Indictment, &c. must be brought.

The Indictment may be brought at any time for an offence done against the common Law; but for any offence against the Statute, it must be brought within the time the Statute prescribeth.

For some offences it must be brought at the next or second generall sessions after the offence being

being done; as thoſe againſt the Ordinance of the *Directory*. Chap. 14

For ſome offences it muſt be brought within a year after the offence done; as the Statute 2 & 3 *Ph.* & *Mich.* 3. about keeping Kine, &c. 31 *Eliz. ch.* 4. about Armour. 2 & 3 *Ed.* 6. *ch.* 10. about Malt-making. 5 *Eliz.* 5. about eating fleſh. 33 *H.* 8. 6. about ſhooting. 7 *Ed.* 6. 5. about Wines. 32 *H.* 8. 9. about maintenance. 3 *H.* 7. 1. about Inqueſts for concealment of Felonies. And ſome others.

For other offences it muſt be brought within two years after the offence done, as foreſtalling, regrating, and ingroſſing, againſt the Statute of 5 & 6 *Ed.* 6. *ch.* 14. and ſome others.

For other offences within ſix moneths by Statute, 5 *Eliz. ch.* 15. about Propheſie, *Stat.* 4. *Jac. ch.* 5. about Drunkards, 5 *Eliz.* 5. about fiſh by the Informer, 33 *H.* 8. 6. about ſhooting by the Informer, and ſome others.

All actions, indictments, & informations, where the forfeiture is given to the Lord Protector alone, ſhall be brought within two years after the offence done. And all actions, &c. but the Statute of tillage, where the forfeiture is given to him, & another, muſt be brought within one year after the offence done, *Stat.* 31. *El. ch.* 5. Or in default of that for him within two years; for ſhooting, for the Lord Protector within a year; and ſuch as are brought after this time are void. But where the Statute by which the offence is made doth limit a ſhorter time, there it muſt be brought within that time. 33 *H.* 8. 6.

And therefore one being indicted for not baptizing his child, and it appeared the offenee was three

Chap. 14 three years before, the Coutt ſtayed the Indictment. *Mich.* 7. *Jac. Stoners Caſe.*

4. For the place of the offence, and in what place it may, or muſt be ſaid to be.

An Indictment, Preſentment, &c. generally muſt be ſaid to be in a place certain for the *venue*. And it muſt be there brought and preferred where the offence is done. *Stat.* 1 *R.* 3. 2.

If it be upon a penall law, it muſt be laid to be done there where in truth it was done, elſe the Defendant ſhall be found not guilty.

But informations againſt Popiſh Recuſants for not coming to Church. For maintenance, champerty, and ſome others may be alledged to be in any County. *See the Statute* 21. *Jac. c.* 4.

If one be ſtricken in one County, and die of that ſtroke in another County, he may be indicted in the County where the death is, *St.* 2 *&* 3 *Ed.* 6. *c.* 24. *Lamb.* 493. And it ſeems the two Counties, unleſs *London* be one of them, may joyn in this caſe. *Brook in Diet.* 45. 31. 26.

If a Felony be done in one County, and a man become acceſſary thereto in another County, the Indictment againſt the acceſſary may be good in the county where he became acceſſary. *Lamb J. P.* 493. *Young* 120.

If one be robbed by the high-way in *Middleſex*, and apprehend the Theef (having the goods about him) in *Eſſex*, he may be indicted for this Felony in *Eſſex*, but not for the Robbery there, for it is no Robbery but in that County, but is Felony where ever he hath the goods. *Lamb.* 499. *Young* 120.

One was indicted *Banco Regis* in *Middleſex*, for that he at B. in the County of *Middleſex* did procure *I. S.* to kill *I. B.* whereby he killed him at S. in the County of *Berks*, and it ſeems

seemes it is good, 9 *Ed.* 4. 48. Chap. 14

In informations, the very County wherein the thing was doue must be expressed, except it be for champerty, buying of Titles, Extortion, or for matter of corrupt Usury, or for ingrossing or regrating, where the penalty appears to be twenty pounds or above, and in some other cases which may be laid in any County, as please the informer. *Stat.* 31 *Eliz. chap.* 5. *Poulton de pace* 165, 166. And all sutes grounded on 33 *H.* 8. *cap.* 9. touching unlawfull games, and bowes and arrows, 5 *Eliz. ch.* 5. For using any Trade which one hath not been brought up in, shall be heard and determined at the Assizes or Quarter Sessions of the County wherein it was done, or the Leet within which they happen, not elsewhere.

A man may be indicted in this Court for any Felony, for any Trespasse, for any wrong done by fraud or force, for any offence against a Statute Law, the conusance whereof is referred to the Justices of Peace. And therefore upon any offence against any Article of the charge; as for extortion, escapes, rescues of persons and goods, unlawfull distresses, with-holding of Treasure trove from the Lord Protector, for conveying away men from the Justice of the Law, for hiding and keeping away an Apprentice from his Master, for Popish Recusants, 3 *Jac. c.* 4. For concealment of Pelonies in Inquests. *Stat.* 3 *H.* 7. 1.

1. For the thing for which a man is indicted, and for what causes an Indictment lieth.

But an Indictment in this Court is not good for the taking of such things which are *feræ naturæ*, as Deer, Hare, Partridge, Pheasants, unless

Chap. 14 leſſe they be made tame, or taken out of a Park, for they are not valuable, 8 *Ed.* 4. 5. Nor for Treaſon. Nor for breaking a Recognizance of the good behaviour, 8. *Car. B. R. Cook.* 4. *part. Inſt.* 18. Nor for incloſing Commons. *Brook Indictment in toto.* For the remedy upon the forfeiture of a Recognizance is by *ſcire facias*, and not by Indictment. *Cook* 4. *part of his Inſt. f.* 181. *Yet ſee Stat.* 5 *&* 6 *Ed.* 6. 25.

6. For the manner and form, and when it ſhall be ſaid to be formall, or not.

All indictments muſt be entred and inrolled in Engliſh: & where Indictments did uſe to ſay, *the ſeſſions of the peace of the King*, it muſt be *the ſeſſions of the publick peace*: and whereas it was ſaid, *the Jury of the Lord the King. ſay and preſent*, now it muſt be *the Jury for the Lord Protector ſay and preſent.* And inſtead of theſe words, *in the peace of God, and the ſaid Lord the King then being*, it muſt be, *in the peace of God, and in the publick peace then being*: and inſtead of theſe words, *againſt the peace of the ſaid Lord the King, his Crown, and Dignity*, it muſt be theſe words, *againſt the publick Peace*: and where mention is made of *high-wayes in Indictments*, they ſhall be called, *common high-wayes*, and not the *Kings high-wayes*: and theſe words, *of the ſaid Lord the King, or Kingdome, or his Kingdome, or this Kingdome, or Kingdome in any caſe*: and theſe words, *little regarding his due Alleagiance towards the Lord the King*: and theſe words, *againſt his due Alleagiance*, and in the defamation and derogation of the Kingly Majeſty of our ſaid Lord the King, now ſhall be wholly left out in all Indictments, Preſent-

ſentments and Inquiſitions. And in Indictments for abuſing money, where it is *imagining and intending the ſaid Lord the King, and his people, craftily, falſly, felonioufly, and traiterouſly to deceive, &c.* It ſhall be *imagining and intending the people of* England, *craftily, falſly, and traiterouſly to deceive, &c.* And where in theſe Indictments it hath been, *to divers of the ſaid Lord the Kings liege people and ſubjects, falſly, felonioufly, and traiterouſly hath ſpread abroad, &c.* it ſhall be *to divers honeſt perſons of* England, *hath falſly, felonioufly, and traiterouſly ſpread abroad, &c.* and for uttering falſe Coyn, where it was *of lawfull money and Coyn of the ſaid Lord the King of this Kingdome of* England, now it ſhal be *of lawful & curr. money & Coyn of* England. And whereas it was, *to divers liege people of the ſaid Lord the Kings ſubjects, for true, lawfull, and current money, and Coyn of this Kingdome of* England, *falſly, voluntarily, and knowingly hath ſpread and uttered in payment, to the great deceipt of our Lord the King, and his people, and againſt their due Alleagiance,* It ſhall be, *to divers honeſt perſons of* England, *for true, lawfull, and current money, and Coyn of* England, *falſly, voluntarily, and knowingly hath ſpread abroad, and uttered in payment, to the great deceipt of the people of* England, or with the alterations ſupplying the ſenſe thereof, and ſuitable to the alteration made, *Act.* 17. of *Feb.* 1648. 9. of *April* 1651. 22. of *Nov.* 1650. Chap. 14

In an Indictment of Treaſon, the word traiterouſly muſt not be omitted. So in an Indictment of Felony, petit Larceny, or Maihm, the word felo-

Chap. 14 felonioufly, in an Indictment of Murder murdred, which is ſufficient without ſaying of malice forethought, in an Indictment of Burglary, burghlarily, or buglarily, or burgularily, in an Indictment of piracy, piratically, in an Indictment of rape, raviſhed, in an Indictment of riot, riotouſly, *Poulton* of the peace, 25. 27 *H.* 8. 17. *Cook.* 4. 41. *Stamf.* 149. 9 *E.* 4. 26. *Dy.* 99. 216. 304. For ſcarce any other words will ſupply theſe, and therefore to ſay, that A. broke the manſion houſe of B. in the night, is not good for Burglary; and yet to ſay hath broken, &c. with the intent to commit Felony or Murder, is held to be good; ſo if it be, that A. hath ſlain B. of malice foret-hought, and freely, or felonioufly, this is not good to charge for murder, though happily it may be good for manſlaughter. So if that A. Felonioufly took B. and her carnally knew, is not good for rape, ſo he ſtole, or raviſhed, and ſtole without Felonioufly is not good: So to ſay A. took B. into the cold, whereof he died, without felonioufly is not good.

For a riot, inſtead of riotouſly, routouſly and unlawfully was judged void, in 7 *Ja. B. R.*

To ſay in an Indictment, Felonioufly he led away, without he took, or he took, without led away, is not good, but it muſt be, took and led, or carried away. So to ſay, that A. burglarily broke the Church, &c. in the night, *ad depradandum*, to make a prey of the goods of the Pariſhioners in the ſame being, was adjudged void.

In forcible entry on the Statute, 8 *H.* 6. 9. It muſt be with ſtrong hand, or with a multitude of people, or it is not good.

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The Indictment was, not with ſtrong hand diſſeiſed, but with force armed, and it was agreed to be naught, *M.* 7 *Jac. R. B.* in *Shellitons* caſe. Chap. 14

In the Indictment upon the 8 *H.* 6. *chap.* 9. it was ſaid, That he againſt whom the Bill is preferred, diſſeiſed him that preferred the bill with force and arms, *viz.* with ſwords, &c. omitting with ſtrong hand expelled, and it was adjudged good.

If one be indicted as acceſſary to a Burglary, the Indictment muſt ſay maliciouſly, *Dier* 99, 304. *Lamb. J. P.* 50. *Poulton de pace* 25. 27 *H.* 3. 27. 9 *Ed.* 4. 26. 29. *Dier* 69. 216. *Plow.* 475. *Cook.* 4. 41. *Stam.* 94. *Cook.* 4. 29. 8 *Ed.* 4. 10. *Cook upon Littl.* 127. *Dier.* 189. But thoſe Indictments may be good for Treſpaſs, or ſome other offence that have theſe defects in them.

The omiſſion of theſe words, with force and arms, *viz.* with ſtaves, knives, weapons, and arrows, and the like words in *Indictments* of forcible entry, or the like offence, do not make them vicious. But it is good to inſert them for aggravation: yet if they be omitted in an Indictment of Felony, it ſeems it is otherwiſe, for in *M.* 17. *Jac. B. R.* An Indictment for petit Larceny was quaſhed for lack of theſe words: yet ſee the Statute of 37 *H.* 8. *c.* 8. Vi & armis.

But the inſerting of theſe words in the Indictment, with force & arms, where they are needleſs, as in an Indictment that for an offence that lieth in *non feſans* or neglect will not hurt it. *Cook.* 9. 50. In forcible entry it is needleſs, for it is implied. *Lamb. I. P.* 582. *Young* 121.

Some think theſe words againſt the peace are Contemptum.

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Chap. 14 neceſſary to be uſed in all Indictments of Felony, forcible entry, riot, treſpaſs and the like; & in all offences againſt any Statute, though it be for not doing: and where is any force, and before the Statute with force and arms muſt have been uſed: for in 17 *Jac. B. R.* one *Palfray* was indicted for a common Barretor, and the Indictment was quaſhed, becauſe it did not ſay, againſt the publique peace, nor againſt the form of the ſtatute, *Cook.* 9. 50. *Lamb.* 502. *Young* 121. in *ſtat.* 4 *Jac.* 1.

But the inſerting of theſe words where they are needleſs will not hurt the Indictment. Nor a falſe concluſion of an Indictment.

Pu pace Domini Regis. The omiſſion of theſe words, that the party ſlain was in the peace of God, and the publique peace will not hurt the Indictment. *Cook.* 4. 41.

If an Indictment have theſe words in the beginning, feloniouſly and of malice forethought; to the affray, and after omit it to the ſtroke, yet it is good. *Cook.* 4. 41.

If the Indictment be that *A.* beat *B.* and one horſe of the price of 20 s. feloniouſly took, omitting of him *B.* this is good. *Fitz. Indictment.* 6.

If in an Indictment for robbery aſſault he made be omitted, this makes it void for Felony, but not for Robbery. *Dier.* 224. *Hill.* 7. *Jac. B. R.*

This Indictment was thus. The Jurors preſent, if *I. B.* of &c. inſtead of that *I. B.* of &c. and it was quaſhed

An Indictment was, *Quod quidam A intra Libertatem Domini Regis villa ſua de Coſſam,* &c.

&c. ſubter mimillam, &c. dedit vulnus, &c. A-vus cum pelleto plumbeo vulnus totaliter, &c. penetrans in & per corpus, &c. Exceptions, 1. That the Village of *Coſſam* was not ſaid to be within the Liberty of *Coſſam.* 2. For that it was *ſubter mimillam* with a ſingle *m.* 3. For that it was *vulnus.* 4. For that the depth and breadth of the wound was not deſcribed, but were over ruled, yet for want of the word, he ſtruck, made void after Outlawry, and the party diſcharged. *Longs Caſe. Cook* 5. 20.

Where the Indictment is of a living thing, and the number is to be ſet down, or of a dead thing in the ſingular number, or that goeth by weight or meaſure, or of coyn that is not currant, it muſt be of the price, not to the value. But if it be of dead things in the plural number, not going by weight or meaſure, or of currant money, then it muſt be to the value, not of the price. If it be of dead things, it muſt be goods and chattels, expreſſing the names thereof in certain. If living things, he muſt ſay, an horſe, Ox, ſheep, the number muſt be expreſſed.

If an Indictment be, that the goods of the foreſaid *W S.* feloniouſly he took, and *W S* not ſpoken of before, it is naught.

If an Indictment be for taking the goods of a Church, it muſt ſay, the goods of the Pariſhioners in the cuſtody of the Wardens, &c. and the goods of the Church is not good. *Brook Indict.* 33.

If it be the goods of a Parſon, it muſt be the goods of the Rector, not of the Church. 37 *H.* 6. 33 *Young* 120.

The goods of a Corporation, they muſt be ſaid to be goods of them, by the name of their Corporation If the goods were taken from the Teſtator, the indictment muſt be, the goods of the Teſtator; but if

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after his death, it must be the goods of the Testator, in the custody of his Executors being. *Lamb. Just. P.* 496. *Young* 120.

For the taking away of a Coat-Amour over a Tomb, it must be goods of the Executor of him whose Tomb it is. But for a Tomb-stone, goods of the Church. If they be taken from a trespasser, they must be said his goods that had the last possession. But if I deliver them to one to keep for me, and they be taken from him, it must be goods of me in his keeping. *Young* 121.

An Indictment of the goods of a Chappel in the custody, &c. goods of an house or Church in time of vacancy, it is good. 7. *Ed.* 4. 14.

Verity.

Every Indictment or Presentment, must have verity in it, and it is to be framed as neer the truth as may be; for it is to be found by the Jury upon their Oaths, and the Indictment being *verè dictum*, and a matter of Record, ought to set forth all the truth that by Law is requisite. For of things not appearing, and not being, is the same reason. And every part of it must be found by the Jurors, and no part can be supplyed by averment. And if it be not so, it is insufficient. *Stat.* 31. *Eliz. c.* 5.

Certainty. Incertainty.

Also it must have a full and precise certainty, and perspicuity in the Record it self, so that it need no supply by argument or intendment, for it is to be found by the Oath of Laymen. And this certainty lieth in six things, 1. In the persons that did the offence, and against whom the offence was done. And for this we are to know, that though it be not needful in Informations, yet in Indictments and Presentments, the names of Baptism, and surname of the party indicted

indicted and presented, with an addition of his mystery or degree, and his dwelling place is to be inserted, as *I S.* of *W.* in the County of *G.* Mercer. 1 *H.* 5. 1. 5 *Poulton de pace.* 196. *viz.* The Town, Hamblet, and County of which he is, or hath been of late conversant, otherwise it is insufficient, and may be avoided. And a mistake in the name of Baptism, is more dangerous then in the sirname; for a man may plead mis-naming of his name of baptism, but of his sirname not.

Additions necessary, & what is a good addition, or not.

The addition of the Degree or Mystery must be alwayes such as the party hath at the very time. But the addition of the place may be of such where he was at any time before, so that the word, *lately*, be added. *Young* 119. *Lamb. F. P.* 490, 491.

The addition of names of Dignity by Creation, as Duke, Marquis, Earl, Vicount, Archbishop, Knight, Serjeant at Law. Or without Creation, as Baron, Esquire, Gentlemen. Also Alderman, Widow, Spinster, Single Woman, Doctor, Clerk, Parish-Clerk Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Millard, Haberdasher, Goldsmith, Butcher, Carpenter, Chapman, Smith, Laborer, Lighterman, Waterman, Spinner, and such like are good, for the Mystery or Occupation. But Farmer, Servant, Butler, Chamberlain, Citizen, Extortioner, Maintainer, Vagabond, Heretick, Usurer, Thief, Schismatick, Dicer, Carder, Chancellor, Treasurer, Sheriff, Coroner, Escheator, Bailiff, Dean, Archdeacon, Prebend or Parson, which are names of Dignity by reason of Office only, are not good addition. *Cromp F. P.* 96. 5. *Ed.* 4. 40. *Dier* 203.

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The Inhabitants of a Pariſh may be indicted, either by their names in particular, or in general, without naming any one of them in particular; and the indictment is good either way, 8 *Fac. Cook and Walberton.*

If a man have two names, or be uſually called by two names, he may be indicted by either of them.

If one be indicted by the name of *I S.* ſervant to *I W* in the County of Middleſex Butcher, this is void, for ſervant is no addition, and Butcher ſhall be referred to the laſt name. 9 *Ed.* 4.48.

So if it be *I S* lately of *E.* in the County of *S.* wife of *W S* lately Spinſter, it is vitious.

Alias dict. If an indictment be againſt three, and in the end of their names is Yeoman, this is defective for the two firſt names. *Dier* 285. *Plow.* 537.

Alias dict. If an indictment be againſt *I S* Citizen and Panner of *London*, otherwiſe called *I S* of *London*, Draper: this is naught, for he may be Panner of *London*, and dwel at *York*.

But Mercer of *London* is a good addition 36 *H* 6.30. The [otherwiſe called] after, wil not help the miſnaming before, for the addition muſt be in the premiſes, not in the [otherwiſe called.] *Dier* 50.

If it be *I S.* of *C.* in the County of *G.* lately Yeoman, this is not good, for it muſt be the myſtery he is now of; yet *I S* lately of *C.* is good for the place, but it is beſt to write him of the place he is.

This addition muſt alſo comprehend the Town or Hamlet, or place known out of any Town or Hamlet, and the County whereof the party indicted is or was; for by the omiſſion of the Town or

or County, the indictment is naught. And if there be divers Hamlets in one, he may be named of the Town or Hamlet, or of such a Hamlet in the Parish. But if he be named of a place known, and the place be within the Town, he must be named of the Town: and if both Towne and Parish bear one name, he may be named of either.

If there be two Townes or Villages in one Parish, then he ought to be named of the Parish; if there be but one Village in the Parish, he is to be named of the Village in the Parish of *S*, or of the Parish, omitting the Village. But if there be divers Villages or Townes in one Parish, he must be named of which Village in the Parish of *S*. only. If a man have a family in two Counties or places, and live sometimes at the one, and sometimes at the other, he may be named of either. And if a Serjeant at Law doth use to keep Terme, he may be said to be of *London*, or of the place where he dwelled.

If an indictment be against the Parson of *Dale*, without naming the place of his abode; or against the Rector of the Church of *Dale* in the County of *Glou.* this is not good. 22 *H.* 6. 41.

An indictment was against divers for a Riot, and it was not expressed in what County they were; for that it was quashed. *Pasch.* 18 *Jac.*

An indictment was for killing a mans wife thus, That the said *A* was in the peace, until the foresaid *I S* husband of the foresaid *A S* of *H* foresaid, in the County foresaid Yeoman; in this case it was held good, for it was upon view of the body, otherwise not: For 1. it should have been lately husband. 2. Yeoman shall be referred to

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the husband, for it cannot be referred to the wife. But if it were *Spinſter*, *contra*, for that addition is appliable to a man or woman. *Dier* 46.47.

But theſe additions are not neceſſary in Informations againſt the breakers of penal Lawes. Nor upon a Sheriffs returne of a Reſcue, 13. *H.* 7. 21.

Nor is this addition ſo neceſſary to the name of the perſon to whom the offence is done Yet regularly there muſt be ſome certainty in the name of the perſon againſt whom the offence is done. *Young* 120. For a murder may be charged to be upon *I.* Pariſh Prieſt of *W.* without any ſirname, or of a certain unknown one. The goods of a certain man unknown feloniouſly took, and it is good; but if the Indictment ſay, that he ſtole a coat of a man unknown, whom he found dead, this is naught. Yet if the party to whom the offence was done cannot be found, it is good without naming him, as before. So for an aſſault, aſſault he made upon a certain—unknown. *Young* 118. And yet if an Indictment run thus, That he ſtole twenty ſheep, price &c. and doth not ſay of whom, or that they were the goods of any body, this is not good. So if the Indictment be, that *A* entred into a houſe with ten other perſons, and neither name them, nor ſay they were unknown, this is not a good Indictment.

If an Indictment be againſt a man for an acceſſary, the name of the principal muſt be ſet down. So alſo the acceſſary, in caſe the principal be indicted for that offence, elſe it is not good; and therefore if the Indictment be that *A* commanded a certain unknowne man to kill *B*, which he did, this is void: but in caſe of Treaſon, Treſpaſſe,

paſs or maim, where all are principals, it may be good enough, *quod procuravit perſonas ignotas*, to do the fact.

An Indictment for diſtraining the Kings ſubjects, and doth not ſay whom, is void.

An Indictment for ſelling and making of tanned Leather, and did ſet downe the perſons to whom it was ſold, was miſliked, it is traverſable, 1 *R.* 3. 1.

As in perſonal actions, ſo in Indictments Preſentments, &c. the day and year when the offence was done, and ſometimes the hour, muſt be certainly ſet down, as, The 13 of March the year of the Lord, &c. now preſent, or the Indictment will not be good; for if a man be hurt above a year before, it is no felony; and for treſpaſs againſt penal Statutes, the offence muſt be done within a certain time before. Statute 23 *Eliz.* 5. 39. *Eliz.* 1. 2 *Jac.* 4. 7. For the time, and how it ſhall be laid, and when the fact ſhall be ſaid to bee done.

And therefore if a felony or treſpaſs be laid by an Indictment to be done, and no time ſet downe when it ſhould be done, or if it be 10 *Martii*, without ſaying in what year, it is vitious. *Broo.* Indictment 41. But if it be ſaid to be done the day next after the day of Pentecoſt, or the tenth of March laſt paſt, or the tenth day from Eaſter, the 4. *Car.* or the *utas* of the Holy Trinity; theſe are good Indictments, that is certain which may be made. 8 *H.* 4. 8. 2 *H.* 7. 7. 3 *Ed.* 4. 8. and ſo if it be *Anno Domini* 1645. without naming the yeare of the King, it is good, and ſhall be taken as we ordinarily take it.

If it be ſaid to be done on the Feaſt of S. *Peter*, it is not good, for there are many feaſts of that name, and they have additions, 3 *H.* 7. 5. *Fitz.* Indict- Incertainty

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ments 22. But it ſeems in the Feaſt of S. *Mich.* is good.

If the indictment lay the thing to be done on a day yet to come, it is naught; ſo of a day that never was, as the 29 of *February*, except in a Biſſextile, which is every fourth year, for then it hath 29 dayes.

When ſeveral Acts which are done at ſeveral times do make up the offence, as the ſtroak and the death, both times muſt be certainly expreſſed, *Broo. Indict.* 41. *Dier* 69.

When ſeveral actions which are done at ſeveral times do make up the offence, as the ſtroak and the death, both times muſt be certainly expreſſed. *Brook Indict* 41. *Dier* 69.

If an Indictment be againſt *I. S.* for a ſtroke the fourth of *Auguſt*, and death thereby the nineteenth of *December*; and ſaith further, That *T* & *W* the time of the felony and murder the fourth of *Auguſt* &c. felonioufly were preſent with ſwords &c. then and there aiding, aſſiſting, &c. this is void, for the murder was not till the laſt day; and that *auxiliantes* is neceſſary in this caſe, for it cannot be ſupplied by argument or intendment. *Cook* 9 62. 5. 120. 42.

If an indictment be that *A* ſtruck *B* the 19 day of *May*, whereof he languiſheth to *May* 20. which 19 *May* he died of the ſame ſtroke, this is naught, for it ſhould be, he died the 20 day. *Dier* 50.

If the offence be done in the night before midnight, it muſt be laid to be the day before; if after, it muſt be laid to be done the following day. *Lam. J. P.* 402. *Young* 219.

An indictment was, that *A.* ſuch a day did a felony at *H.* for which *W.* did arreſt him at *H.* foreſaid,

ſaid, and in ſafe cuſtody then and there had, untill the def. upon the foreſaid *A.* then and there aſſaults made, and the ſame then and there reſcued &c. it is doubted if the firſt [*then*] made the time of the arreſt certaine enough. 2. And whether the laſt *ad tunc*, &c. may be referred to any part of the ſaid day. But it ſhould have been *dicto die*, &c.

If a preſentment be in the negative, or an affirmative riſing of a negative, as that *A* hath not skowred ſuch a Sewer, or that by the not ſcowring thereof ſuch meadows be drowned, in this caſe there needeth no year or day, for it affirmeth a preſent evil, *Lamb.* 492. *Young.* 119.

If the indictment ſay, that *A* ſtole goods, 10. of *March*, and 20. of *March*, this is void for incertainty, for one felony cannot be twice committed. 2. *H.* 77. Incertainty.

If one lay a felony to be done the tenth of *May*, and an eſcape of him the firſt of *May*, year 20. aboveſaid, this is naught, for he cannot be acceſſary before the fact done, 21. *H.* 7. 35.

8. For the place of doing the thing, and how it ſhall be laid down.

The place, (*viz.*) the Towne and County where the fact was done, muſt be certainly ſet down in every Indictment, as *Dale* in the County of *Glouc.* And therefore if the Indictment ſuppoſe an offence to be done, and do not ſay in what town, it is void: ſo if he do not ſay in what County, 9. *H.* 6. 1. If he ſuppoſe it to be done in ſuch a place as is not within the County, it is naught. 9 *H.* 6. *ch.* 1. 18. *H.* 6. *ch.* 12.

As if an Indictment be laid to be at *Iſlington*, and ſay not in what County, it is void. So if one be indicted for ſelling tanned Leather, and do not ſay where, or to whom, this is void for incertainty,

Broo.

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Broo. Indictment 43. *Broo.* pleading 158. *Lamb.* 149. And if an Indictment be that he gave the Livery at ſuch a time and place to him, and that he did weare it, but doth not ſay when or where, this is not good, 5 *H.*7,18. Or if he be ſelling and making of tanned Leather, and no place where, it is naught, for it is traverſable, 1 *Ric.* 3.1. *Lamb. & P.* 499.

If the offence be laid to be at *Dale* in the County aforeſaid, having reference to the name of the County, in the margent of the indictment, it is doubted whether this be a good indictment.

If one be indicted, that he by the command of one *A.* did reſcue a felon, this is not good, for it is not ſhewed where the command was given, 3.*H.* 7.12.

But the ſetting down of too much, as if it be at *D.* in the County of *G.* in a certain place called *North-cloſe*, wil not hurt the indictment.

If it be that he diſtrained at *Dale*, and *J S* reſcued the diſtreſſe, and doth not ſay where, it ſeems this is good, for it ſhal be intended the firſt place, otherwiſe it were in caſe of ſuch a return by a Sheriff of the reſcue of a perſon.

When ſeveral acts done at ſeveral times do make up the offence, as the ſtroke and the death, both places muſt be laid down certainly; and therefore if the indictment be that *A* at *Dale* aſſault made, and him murdered, without [then and there] it is not good. *Dier* 69.

If the indictment be, that he gave the wound at *D.* in the County of *G.* and that he died at *S.* &c. and ſo he murdered him at *D.* this is naught, for he can no more ſay he killed him at the firſt place, then the firſt day, *Cook.* 4.42.47.

The

. The indictment may ſuppoſe part of the offence to be done in one County, and part in another County, and yet good. Part 2. Chap. 14

The name and quality of the thing in which the offence is committed, muſt alſo be certainly ſet forth; as if an indictment be for forcible entry into land, the indictment muſt ſay what land. Therefore to ſay with a ſtrong hand they entred the Tenement &c. is naught; for Tenement may mean a houſe, as wel land, meadow, or paſture, *Lamb. & P.* 499. So that he entred the ſite of the Manor of *S.* or the manſion houſe of *W S.* this is void for incertainty, *Trin. Jack. B R.* and if it be felony, it muſt be a perſonal thing, elſe it cannot be felony, *Young* 121.

9. For the name and quality of the thing in which the offence is committed.

Incertainty.

An indictment of the taking of goods and chattels, it is not good in treſpaſs or felony.

If it be dead things, it may be *bona & catalla*, expreſſing the name of the thing in certainty, but if it be of things living, it ſhall not ſay goods and chattels, but an horſe, ox, ſheep, &c.

The value or price of the thing wherein the offence is done, muſt alſo be certainly ſet downe, to ſhew the nature of the offence, and whether it be petit Larceny or not, as a certain cow &c. of the price of 40. ſhil. &c. felonioufly took; for where the number ought to be expreſſed, as if it be for taking ſheep, doves, &c. the indictment muſt ſay of the price, or to the value, ſo much, or elſe it is not good. And therefore an indictment againſt *A.* that he imported one load of hey, omitting to the value, was adjudged void; an indictment in felony or treſpaſſe, for taking goods and chattels, without expreſſing the name and value of the thing, is void for incertainty. So an indictment for

10. For the value or price of the thing, in which the offence is.

Committed.

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breaking a close, and carry away corn, omitting to the value, is naught, 9 *Ed.* 4. 1.

11. For the description of the matter & manner of the offence.

The matter it selfe, the nature of the fact, and offence, and manner of the doing of it, must be also cleerly set forth, that it may be distinguished and seen what the offence is, whether Treason, Felony, &c. and against what Law it is, otherwise the presentment or indictment will not be good. And therefore if the Indictment be, that *A* taken for felony, feloniously and at large he permitted to go, and doth not say for what felony he was taken, this is naught, 8. *El.* 4. 4. So that feloniously he broke prison at *A.* and doth not shew for what hee was imprisoned there, 9 *Ed.* 4. 12. 25. *Ed.* 3. *ch.* 9. So if a man be indicted for making of an hundred shillings of Alcumy, like the mony of the Common-wealths, and doth not alledge what mony it was, groats or pence, this is naught, *Fitz. Indictment* 10.

Incertainty.

And therefore in murder, and man-slaughter, it is good to expresse the stroke whereof the death ensued *Dier* 69. If the Indictment be, that hee killed with a dagger, and it was a sword, it is good enough, *Cooke* 967. *Young* 128.

Darvel was indicted for killing *Bowser*, and it is found they were both in the field with their weapons, and that *Bowser* going out of the field, and returning, drew his sword upon *Darvel*, and that then *Darvel* returned back from the hedge and said, tis no place to fight, and so *Bowser* stroke *Darvel*, and then *Darvel* killed *Bowser*, and hence we collect (saith the Jury) that *Darvel* killed *Bowser* in his owne defence, and this

this was quaſhed for ambiguity and incertaintie, *Hill.17. B R.* Part 2 Chap.14

An indictment for murder was quaſhed, for that it ſaid, with a ſword he ſtruck, and omitting which he held in his hand, alſo for that it omitted that felonioufly aſſault he made upon him, &c. Alſo for that it did not ſhew after the *dans ei* &c. that part of the body that was wounded; alſo for that it ſaid ſtruck, and omitted then and there: but exception was taken, for that it is ſaid *dans ei*, &c. and did not ſay *idem*, but this was not allowed, *Fullers caſe, B.R. Longs caſe, Cook* 5. 20. *percuſſit* to expreſſe ſtruck, is a material word.

If an indictment be for a wound, and it be laid to be under his left arme, or under his pap, or about his navell, theſe are void for incertainety; but under his arme, about his pap, or in the left part of his body, or in the left part of his belly about his navel; theſe are good and certaine enough, *Cooke* 4. 41. 9. 114. 9. *Fac.*

So if the Indictment be, that he gave one a mortal blow about the breſt, this is not good; for it muſt ſay in what part the wound is, the depth and breadth of it, if it be not a part cut off. And if there be two wounds alledged, and one of them is more uncertainly ſet downe, this will marre the whole Indictment; if he ſay, of the wounds foreſaid he died, *Cooke* 4. 41. 5. 120. 9. 62. 114.

Indictment was for poiſoning, and ſaid, that he perſwaded the other that the potion was mixed with *Cantharides*, and would make him have iſſue, &c. not knowing the foreſaid drink

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drink to be mixed with poiſon, but truſting the foreſaid perſwaſion (the ſaid *W.* took and drank) omitting poiſon aforeſaid, and it was naught, and that the words following immediately after the taking of the poiſon aforeſaid wil not help, for a fault in an indictment, cannot be made up by implication, *Cook* 4.44.

The indictment was thus, The ſon had taken his ſick father, and carried him into the cold weather, whereof he died; it was diſallowed, becauſe it wanted feloniouſly, and *ſtruck* is an apt, if not a neceſſary word for this indictment.

An indictment was, That a certain A *B.* within the liberty of our Lord the King of his town of *Coſſam*, &c. under the pap (*mamillam &c.*) gave a wound &c. giving with a leaden bullet, &c. penetrating into, and through the body &c. and exceptions were taken, 1. For that the village of *Coſſam* was not ſaid to be within the Liberty, and therefore nncertain. 2. For that it was *ſubter mamillam*, with a ſingle *m*, which is a word inſenſible. 3. For that it was *wound*, for that the depth and breadth of the wound was not deſcribed; but theſe were over ruled: and another exception taken out of theſe words, That a dag with powder and a leaden bullet laden upon him *H.* he diſcharged, giving the ſame &c. one mortal wound, omitting the word *ſtruck*, and for this it was quaſhed, after outlary, and he diſcharged, *Cook* 5.20.

If an Indictment be againſt *J S* for a ſtroke, 4. *Auguſti*, and death thereby, 19. *December*, and it goeth further, and ſaith, That *T, M*, &c. the time of the felonie and murder, the 4. of Auguſt &c. feloniouſly were preſent with ſwords &c. then and there aiding, aſſiſting, &c. it was adjudged

judged insufficient, for the murder was not til the last day: it should have been, in manner and forme aforesaid. Also in this it was agreed, that the clause of aiding, &c. is necessary, in this cause, and that without it the indictment is insufficient: for an Indictment cannot be supported by argument or implication, *Cook* 4. 42. 47. 5. 120. 9. 62. Part 2. Chap. 14

One was indicted for taking a half penny from another in the high way, and assault he made was omitted, therefore the Court resolved it a good Indictment for felony, but not for robbery, and therefore he had his Clergy, *Hil.* 27. *Jac. B. R Dier* 224.

John Green was indicted for stopping an high-way leading from the village of A. to the village of B. and exception was taken because he did not shew with what he did stop it; but it was not allowed, *Hil.* 18. *Jac.*

An indictment was preferred in *Banco Reg.* for subornation of perjury, and the substance of it was this, that where the 25. of *January*, 18. *Jac.* divers articles were preferred in the Court of Chancery at Westminster in the County of *Middlesex*, for the good behaviour against *I S.* and *Henry Ockley*, then and there produced to testifie the truth of his knowledge upon the articles foresaid, then and there swore the said articles to be true according to his knowledge, whereas in truth the foresaid *H.* knew not the foresaid articles, or any of them to be true, and so the foresaid *Henry* manifest perjury, then and there committed, and that the said *John VVhitly* did then and there suborn him to commit the said perjury, *Contra pacem*, and against the Lawes of the Commonwealth

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And two exceptions were taken to this. 1. For that he did not alledg that the articles were falſe. For if they be true, and he ſwear them ſo in his knowledge, though he know them not to be ſo, this is not perjurie. But this was diſallowed by the Court, and held to be perjury. And a ſecond was taken to it, becauſe he did not conclude againſt the forme of a Statute. For it was ſaid, that perjurie was no offence at common Law, except only in the ſame Court where it was done; but this was diſallowed alſo. And it was held, that perjurie was puniſhable by the common law. *Mich.* 20. *Jac.*

The inhabitants of *Epny* were indicted for ſuffering two cribs to lie unrepaired, by which the water over-flowed into the high way and marred it; and exceptions were taken becauſe it did not ſhew how theſe inhabitants were chargeable by preſcription, and therefore quaſhed. But if the Indictment had ſaid, That the Inhabitants of *Epny* ought to have repaired it, it might have been good, eſpecially after a verdict, and the inhabitants found guilty; for it is then to be preſumed that they were ſatisfied how they were chargeable. And if there be a *Nuſans*, by the not cleanſing of a river, and it cannot be known who ſhould do it, it ſeems they muſt do it that have or may have moſt benefit by it, as thoſe whoſe grounds are neereſt, or have the fiſhing there. *Broo. Preſentment.* 5.10,11.

A preſentment was, that he had ſtopped a courſe of water from *S.* by ſuffering his trees to grow to the *Nuſans*; it ſeeems he ſhal not be amerced for this, til he be commanded to amend it. *Bro. Preſentment* 11.

One

One was presented, that he and all those, &c. were wont to cleanse such a gutter for the ease of the high-way, *Ratione tenuræ ejusdem terræ*, and exception was taken that he did not shew where the land is; for he may say, that the land is not charged, or that hee hath it not, or the land may lie in another County, and then it is not triable here. But if it had said by reason of the tenure of the same land, this might make it good. So if it be *Ratione terrarum in S.* in general, it is good. And in these cases, it must be the Kings high way that suffers, else the party indicted may shew it. 5. *H.* 7 3. *Bro. Present.* 9, 10, 18, 22.

A Presentment that there is such a high-way, that *I S.* by reason of his Tenure ought to repaire it, that it is decayed; was ruled to be naught, because it wanted these words, from the time the contrary of which, 21 *Ed.* 4. 73. *Broo. Presentment*, 19, 20.

If the Indictment bee, that a man made an 100. l. of *Alchimy* like the money of the Common-wealth, and doth not shew like what money, as groates, shillings, &c. this is not good. *Dier* 96. So, that hee spake words against the King, and shew what wordes incertaine, and then adde, or such like. *Broo. Action sur le case.* Incertainty.

An Indictment against a man that he is a common Thief, a common mis-liver, or a common Fore-staller, or a common conspirator, or a common Champertor, *Broo. Indict.* 12, 19. *Young* 117. and shew not in what particular, it is void, *Plow.* 75. 29, 45. So, to say of an Officer,

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And two exceptions were taken to this. 1. For that he did not alledg that the articles were falſe. For if they be true, and he ſwear them ſo in his knowledge, though he know them not to be ſo, this is not perjurie. But this was diſallowed by the Court, and held to be perjury. And a ſecond was taken to it, becauſe he did not conclude againſt the forme of a Statute. For it was ſaid, that perjurie was no offence at common Law, except only in the ſame Court where it was done; but this was diſallowed alſo. And it was held, that perjurie was puniſhable by the common law. *Mich. 20. Jac.*

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he is a general Extortioner, 25. *Edw.* 3. *Stat.* 3. *chap.* 9.

So to say, they are Insidiators of the wayes, and Depopulators of the fields, they are void: 4. *H.* 4. *ch.* 2. 17. *Edw.* 4. 4.

If it be that *I S.* of &c. (being a common deceiver of the Subjects) the 18. of *Jan.* the 17. of *Jac.* at *L.* in *London* aforesaid, two stalks of clothes (*Libratas*) in stead of two clothes, for 18. l. of lawful mony of *Eng.* to *A B.* of *S.* deceitfully sold, then warranting them to be clothes, whereas he knew them to be counterfeit, &c. This is a good indictment. *Pikes* case.

To indict a man for Battery and wounding, and not say with what weapon, nor in what part of the body he is wounded, is naught.

Yet to say that he slew a certain man unknown, or for the stealing of the goods of a man unknown is good, *Stamf. Pl. Cor.* 95. *Young. f.* 117. *Coo.* 120.

If there be two degrees of an offence, as making and publishing, and the indictment speak but of one, it is naught. 6. *H.* 7. 12.

To charge a man with homicide, and not to say with what weapon, is not good. *Buttons* case, 14. *Jac. B R.*

An Indictment that *I S.* when he was an Officer, took from *V V S.* twenty shillings, it seems is good for extortion. *Brook* Indictments 11.

If an Indictment be against an accessary, the manner of the felony must be set down. And that he knowing him to have done such a felony, did feloniously receive him; otherwise it is, if he be attainted of felony in the same County.

And

And therefore it is not good to say, he received the goods, and not the felon. *Stat.* 2. & 3. *Ed.* 6. *ch.* 24. nor to say, that he knowing him to bee a Felon at *A.* he received &c. without shewing what felony he committed; nor without saying, he knowing it, received him feloniously, unless he receive one attainted with felony in the same County, 7 *H.* 6. 42, 65. 2 *Cooke* 4. 43, 44. *Young* 125.

An Indictment being, that *A* was present when *B.* was murdered, and said not that he did strike, aid, comfort, or cause to be stricken, it was quashed, *Brook Indict.* 15.

If it be, knowing those men felony &c. to have committed at *D.* feloniously hee received, &c. this is naught also; for it doth not shew which of them he received. But it must be, that he did receive them all four by name, or three, two, or one of them by name, 30 *H.* 6, 2. And yet if four be indicted jointly, they are hereby indicted severally, *Poulton de pace* 168.

2. For other cause.

If an indictment find any matter of record, as Outlawry or the like, that is not shewed to the Jurors under the foot of the Seal, it may be rejected, for Jurors are to find matters of fact onely, *Lamb.* & *P.* 503.

On the Statute, & how it shal bee made, and when good, or not.

If a man be indicted for an offence at the Common-law, which is none, this is void, and the party must be discharged. For if it be an offence made upon a Statute, he must then be indicted upon the Statute.

Misrecital.

The indictments that are grounded upon a Statute, need not (as heretofore was used) to recite all the Statute *verbatim*, and the time of the beginning, continuance, and end thereof. Not

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is it policy ſo to do; for miſrecital is dangerous, and will make the Indictment void. But the Statute for ſubſtance muſt be purſued ſtrictly, and *in terminis* in the Indictment. And the material words according to the purview thereof, and the offence ſutable to it, muſt be certainly, and with full words deſcribed; for if any thing materiall in the ſetting forth of the ſtatute, and the offence, be omitted, the wordes [againſt the form of the Statute] (which do only ſupply matter of circumſtance, and not of ſubſtance) will not help it. The courſe therefore is fully and certainly to deſcribe the offence againſt the tenor of the Statute, and to make the Indictment as large as the Statute, and then to conclude in theſe words, againſt the forme of the Statute, or of divers Statutes of our Lord the King, &c. where there be many Statutes thereupon ſet forth and provided, and againſt the forme of the Statute, omitting all that comes after, is good enough, *Plow.* 79, 80, 84. *Dalt.* 360. *Cromp.* 93, 94. *Lamb. & P.* 592. *Young.* 121. But if theſe words, [againſt the form of the Statute] be left out in an Indictment for an offence which is ſo by a Statute, as a Riot, or the like, the indictment is erroneous; for the offences are not puniſhable but by the Statute, *Lamb.* 502. *Crom.* 88.

If the Statute ſay, the ſubſidy not paid, or the Collector not agreed with; it is not ſufficient to lay in the Indictment the Subſidy not paid, without ſaying the Collector was not agreed with *Plow.* 1.

If the Indictment be according to the words of the Statute, and not according to the ſenſe, it is good enough, and the party may help himſelfe by plea d-

pleading, or giving in evidence the ſpecial matter. As if an indictment be againſt a man for taking of more then the market price, and the caſe was, that he took it of another, not of his gueſts, 18. *Fa.* B. R. Part 2. Chap. 14

And Indictment was againſt divers men, that being ſixteen years of age, they had not come to any Pariſh Church by the ſpace of a month; exceptions were taken, 1. Becauſe the Indictment did not ſay they were Popiſh Recuſants. 2. Becauſe they did not ſay, having no lawfull excuſe for their abſence, and quaſhed. For an Indictment upon a ſtatute, muſt contain all the material paſſages of the Statute.

An information was exhibited in the Exchequer, and thereby an uſurious contract in certain, that the party had taken more then the ten pound for the loan of an hundred pound, did appear, ſo that it was corrupt, and it did plainly appear; and he concluded againſt the forme of the Statute, and becauſe he did not ſay expreſly, that it was by corrupt loan, according to the words of the penal law, the information was adjudged inſufficient, *Cooke* 11. 58.

A. was indicted upon the ſtatute of 5. *El. c.* 1. & 2. for aiding another, knowing him to be a principal maintainer of the authority of the Biſhop of *Rome*, with theſe wordes, againſt the form of the Statute; but becauſe the Indictment wanted certain material words, expreſly mentioned in the ſtatute, (*viz.*) upon purpoſe, and to the intent to extoll the authority, &c. It was by the more part of the Judges agreed to be void. *Dier.* 163.

And yet it is, that an article upon the Sta-

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tuse 1. *M.* that he did contemptuously disturb the Minister in time of divine service, against the form of a Statute, without [willingly, and of set purpose] was good, 42. *Eliz. B. R. Travers* case. *Dier* 112. *Pl.* 86.

So it one bring an Action upon the Statute of 6 *R.* 3. of a Feme ravished against the form of the Statute, and it is not said, she consented to the Ravisher, is good, whereby it appeareth, that the Law is not so nice and precise in case of declaration between party and party, as it is in case of indictments, 11 *H.*4.13,14. *Cook* 5.120.

If an indictment be, that *A.* disseise *B.* on force, against the forme of the Statute in the Parliament of the L. *H.* the 6. lately King of *England*, the eighth year of his Reign, is not good, if the entry of *A* be lawful. But it must be that *A.* expelled *B.* out of his Franktenement.

A Presentment was thus:

John Smith of *Ludlow* in the County aforesaid, being the Servant or Deputy of *Oliver Floyd*, Official and Commissary of the Bishop of *Heref.* the 27. of *Feb.* the 18. of *Jan.* extortiously required, had and received eight shillings of lawfull &c. of *Thomas Maud* of &c. for writing the Administration of the goods and Chattels of *John Lile* deceased, &c. by colour of the Office of the said Commissary, and the indictment was quashed, because he did not say, Servant or Deputy of the Commissary. And afterwards he amended it, and made it, being Scribe or Deputy of the Commissary, &c. and it was quashed again.

Also another exception was taken, for that he did not say, of what value the goods were, and yet said,

ſaid, againſt the forme of the Statute, for the goods may be above 40. l. and then it is a caſe omitted; and in this caſe it was agreed, that if there be any fault in the indictment, [againſt the form of the Statute] wil not help, *Mich.* 28. *Fac.* As if an information be for uſury, and doth not ſay, corruptly, [againſt the forme of the Statute] wil not help, for thoſe words ſupply onely circumſtance, not any matter of ſubſtance. Opinion of the Court. 18. *Fac. B. R. Dier* 3. 12. 363. 11 *H.* 4. 13.

One was indicted upon the Statute of *Q. M.* for high-wayes, and divers exceptions were taken to it. 1. For that it did not ſhew who were the Surveyors then; but it was ruled that they need not be named. 2. For that it ſhewed, that they gave notice after Eaſter, and did not ſhew which Eaſter; but it was ruled, that it was ſufficient to ſay, that a day was appointed for reparations, at which day he made default. 3. For that the indictment ſaith, having two Corves of Land, and the Statute ſaith (occupying) but it was ruled to be good, for if one ſuffer his land to be freſh, yet he is within the Statute. 4. For that he did not ſay, the way to be amended, doth lead from or to a Market Town; and it was ruled to be good, for it ſaid, that it was an high-way that leads from Town to Town. *Mich.* 21. *Fa. B. R.* By the Court.

Preſentment was thus:

That a certain *A I.* being an Hoſtler the 1. of *June*, the 17. of *Fl.* had, and received at the Pariſh of *S.* of divers Subjects of our L. the King, for tvvo hundred buſhels of Oats, ſold, and uttered vvithin his Manſion houſe, according to

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the rate of tvvo ſhillings and ſix pence for the buſhell: vvhereas the firſt of *July* the 16. of *Fa.* and after to the 7. of *June* the 17. of *Fac.* the common price of Oates in the Markets of Brainford and Staines, and other Markets of the foreſaid County of *Middleſex*, was not beyond the rate of 20. d. for every buſhel, againſt the form of the Statute, &c.

And upon non-guilty, the Jury found him guilty, and divers exceptions were taken againſt it (amongſt others) that hee did not alledge expreſſly the common price of the Market, but ſaid that the price was not beyo: d. 2. That he ſaid, where the price was not beyond 20. d. for every buſhel, where he ought to have ſaid for any buſhell, or for Oats. 3. For that he did not ſay, that hee was an Hoſtler at the time of the offence. 4. For that he ſaid of divers ſubjects, whereas he ſhould have ſaid, of divers gueſts. 5. For that hee ſaid, within his Manſion-houſe, when hee ſhould have ſaid, within his Inne. 6. For that hee alledgeth the ſale to be without time or place. 7. For that hee ſaid, *Recepit pro* 200. *modiis avenarum, Anglice* Buſhels, and ſaid not of Oates; yet the opinion of the Court was, that the Indictment was good. *Hill.* 8. *Fac.* B. R. *Johnſons* caſe.

A Parſon was indicted in *B. R.* upon the Statute 1. *Eliz.* for not celebrating the Sacrament of the Lords Supper, according to the Rites and Ceremonies of the Booke of Common prayer, made in the time of *Ed.* 6. (*viz.*) in not placing the Communion Table in the midſt of the Chancell, or in ſome

ſome convenient place for the people, and in compelling the people to come to a Raile at the upper end of a Church, not convenient, &c. and it was quaſhed, for that it did not ſhew what Rites are contained in the Common-Prayer Book, and it is too general.

Serjeant *Richardſon* was indicted upon the Statute of *Weſtminſter* 1. *chap.* 29. and two exceptions were taken to the Indictment. 1. In the forme, for it charged him that he ſpake theſe words, *Anglicè*, He knew it to be otherwiſe: Where it ſhould have been, I know it to be otherwiſe. For otherwiſe it is incertain and inſenſible. 2. In the matter. 1. Becauſe it ought to be in pleading, not in ſpeaking: 2. Becauſe this Statute did not extend to the Star-Chamber: For this was not erected at the time of the ſtatute, but theſe words were laid to be ſpoken there, and it was quaſhed for inſufficiency. *Trin.* 20. *Jac. B. R.*

A and *B* were indicted, becauſe they rioutouſly ſuch a day, entred the Meſſuage &c. of *I S* at *D.* in the County of *S.* being the Franktenement of the ſaid *I S.* againſt the ſtatute, &c. and it was quaſhed, becauſe he did not ſay, then being the Franktenement of *I. S. H.* 16. *Jac. B. R.*

I. S de &c. was indicted, becauſe he dwelling in *Bratnford.* 1. *die Apr.* 7 *Jac.* and being a Pedler, at divers times and places a vagrant and idle perſon, and was a Pedler wandring at divers times and places in *Middleſex*, and that the 11 day of *May*, 7 *Ja.* he went to *Hackney*, and then and

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and there ſold a quoife, and divers other wares at *Hackney*, and divers other places, to divers in their houſes, and out of the Fairs and Markets, againſt the Laws and Statutes in this caſe provided, and ſet forth, and it was adjudged good.

One was indicted upon the Statute of 5 *Eliz. c.* 5 at the Seſſions in the County of *Oxford*, that he having an iſſue male, did not baptize it within a month after the birth of it; and exception was taken to it, becauſe he did not ſay when he had it, for perhaps he had it before the Statute, and then it was out of the Statute; but this exception was not allowed, for it was ſaid, it ſhould be intended after the Statute, and where the Statute ſpeaketh of queſtioning the party in a Court of Record, it ſhall be underſtood by information in the Courts at *Weſtminſter*, by Indictment in other Courts of Record.

An Indictment was for entry into one Meſſuage or tenement, and two acres of Land to the ſame Meſſuage belonging: and the indictment was farther, that out of the poſſeſſion of the Meſſuage aforeſaid, he held out, and it was adjudged inſufficient, and the offenders diſcharged; for Meſſuage or Tenement is ſo incertain, that the Court cannot tell of what to make reſtitution, and it is not good, for the Land belonging to the ſaid Meſſuage is not good, for both refer to the firſt incertainty.

One was indicted upon the Statute of 8 *H.* 6. and exception taken, becauſe in the firſt part of the indictment is a Meſſuage, and after, houſe aforeſaid, and ruled good; for it is all one. *Trin.* 22 *Jac.* B.R.

One was indicted for entring into Land, and outing the Termor, and diſſeiſing the Leſſor, and

and it was found, if the Lessor refuse restitution, yet the Lessee may pray, and have it. *Trin.7 Jac.* B R. *per Williams Justice.* Part 2. Chap. 14

An Indictment was, that where *A* was Lessee for years, the Reversion to *B.* and *C.* enter with force, and upon *A* and disseised *B* in the Reversion, and omitted these words, and did out A. of his Term, and it was adjudged void; for if the Lessee be not out, the Reversioner is not out. *Mic. 7. Jac. Shillitons Case.*

In the indictment upon 8 *H.6.c.9.* it was said, That he against whom the Bill was preferred, disseised him that preferred the Bill with force and arms, with sword &c. omitting with strong hand expelled; adjudged good at *Stafford* Assizes. 22. *Eliz.* for that it said, against the form of the Statute foresaid, which was rehearsed in the Bill.

An Action was brought upon 21 *H.6.* for not returning a Burgesse. The words of the Statute are, That the Sheriff shall send his Precept unto the Mayor, and if there be none, then to the Bailiff. And the Information was, that he had made his Precept to the Bailiff, and did not aver that there was no Mayor, yet ruled good, for that is intendable; unless it be shewed on the other side. *Hobert Rep* 107.

An Action was brought upon the Statute of 6 *R* 2. of a Woman ravished against the forme of the Statute, and it was objected that it was not laid, that she did consent to the Ravisher, but because it was laid to be against the forme of the Statute, it was held good. 11 *H.4.13,14.*

A. brought 1 relpase against *B.* upon the Statute of 51.*H.3.* that no man be distrained by his beasts of plow &c. and count for the taking away

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away the Beasts of the Plow, &c. but did not shew that there was any other distress, yet it was adjudged good by these words, against the form of the Statute. *Dier* 312.

An Action was brought upon *M.* for disturbing the Minister, &c. and it was objected, that the words [*purposely and willingly*] being in the Statute, are omitted in the Court; yet it was adjudged good by reason of the conclusion, against the form of the Statute. 42. *Q. E. B R. Trevers Case.*

13. When it is with a Certificate.

An Indictment is sometimes certified by the Justices of Peace to another, and sometimes by another, as from the Coroner or Steward, &c. to them. And in both cases as it is certified, it may become erroneous, and liable to destruction. As if an Indictment sent into the upper Bench, or an Inquisition taken before the Justice of the Peace, and omit, as also divers felon. &c. or omit, to conserve or assign, 12 *H.* 7. 25. 2 *R.* 3. 2. Or if it be taken at the general Sessions of the Peace, and say not before what Justices of Peace; or if it omit, by the oath of honest and legal men; or if the Inquisition be taken on Tuesday and Wednesday, these are all naught. *Cook* 9. 31, 114. *Cook* 4. 48. Or, the Jurors present, and omit all their names. Or, the Inquisition taken such a day and year before *I S*, and name no place. *Dier* 69. *Brook. Indict.* 50. And if he shew not by what Commission the Justices took it, it seems it is not good. *Stamf* 96. 22. *Ed.* 4. 12.

If a Coroner send in an Indictment, and return it taken before *I S.* Mayor of *London* (who is alwayes Coroner) yet if it say not, and Coroner, it is not good, for it may not be supplied by intendment. 2 *Ed.* 4. 10. So if it be before the Coroner

Coroner, and ſay not in what County it is. But if it ſay, before *I. S.* Coroner in the County, or of the County foreſaid, it is good enough; too much ſubtilty in Law is condemned. Part 2 Chap. 14

If an Indictment be ſaid to be taken before *S.* Steward, and ſay not in what Court, and to whom he is Steward. Or it be ſaid to be taken at the great Court of *I S* with the Leet, or at the County of *Middleſex*, with the turn of the Sheriff; theſe are not good.

When an indictment void to one purpoſe, may be good to another.

An Indictment not good to one purpoſe, may be yet good to another: as if one be indicted of felony, and the thing falleth out to be no felony, but is Treſpaſſe, then the indictment is good for Treſpaſſe, to put the party to his fine. *Cromp. 96.* If *A* be indicted for ſtealing the goods of *B.* and the Jury do find that *C* ſtole them, and *A* took them, but not feloniouſly from him, this is not good for the felony, but it may be good for the Treſpaſſe. But if *A* be arraigned upon an indictment of murder taken before the Coroner, and is found not guilty; as they muſt find who did kill him. So if they do find that *C* did it, this is good. *Stamf. 90. Young 125.*

If an indictment be, that feloniouſly he cut down trees, and thoſe carried away, or with force and armes cut down trees, and feloniouſly carried away; neither of theſe will make it felony, it may be a Treſpaſſe; for no felony can be in trees ſtanding, but if it be with force & arms cut down trees, and thoſe feloniouſly (at another time after) took and carried away, this may be felony. And where in an indictment of felony, feloniouſly is wanting, it may nevertheleſſe ſtand good to make it a Treſpaſſe. Though an Indictment

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15. How and when an Indictment may be avoided, and the party indicted discharged thereof.

ment that is faulty (as it ſeems) cannot be ſalved by amendment, *St.* 18 *El.* 13. as other Records may be, yet it may be avoided by Plea. *St.* 37. *H.* 8 8. before judgment, by exception, for error before or after a Judgment, and by a Writ of Errour after a Judgement or Outlawry, which may be had in the Upper Bench after the removal of the indictment thither. But if a man will avoid it for any formal fault in the addition, it muſt be done before the party indicted hath pleaded to the Indictment; for by it he taketh on him to be the ſame perſon. 8 *Ed.* 4. 15. 35 *H.* 6. 12. Yet Outlawries thereupon may be reverſed for this defect at any time; but of other Errors the party may take advantage at any time before judgment to quaſh, or after judgment to reverſe it. But if the firſt Indictment be in a wrong County, or the firſt charge him as principal, the ſecond as acceſſary after the fact.

If one have been indicted for the ſame offence, though by another name (being called by two names) for which he is now indicted, or hath been convict for it, by appeal at the ſuit of the party, he may plead this, and avoid the indictment, *Dier* 85. *Cook* 4. 40, 41. eſpecially if it be felony; for a man muſt not be twice queſtioned for his life for the ſame offence, but being once convict, or acquit ſo long as this Indictment is in force, though the new Indictment ſuppoſe the fact ro be done in another year, or the Proceſſe be erroneous, or be quaſhed for inſufficiency, he may not be indicted *de novo*. *Poulton de pace* 169.

If the indictment be about a thing whereof the Juſtices of the Peace have no Conuſance, as which belongs to the Juſtices of the Forreſt, or the

the like, the party indicted may plead it to the Juriſdiction of the Court, and avoid the indictment. 21 *H.* 7. 31. Part 2. Chap. 14

Sir *Richard Hargrave. Hill.* 17. *Jac. B. R.* was indicted for ſtopping of a way in the County of *York*, and he moved to be diſcharged, becauſe he forty years before had incloſed the way, and then left a good and convenient way, which had continued ever ſince; and the Judges of the Court reſolved, that if the Juſtices of the Peace would certifie this to them, he ſhould be diſcharged.

If the Indictors be felons, ſuch as have beene out-lawed and quitted by pardon, and are not honeſt and legal men, the party upon ſhewing this exception (it ſeems) may be diſcharged. 11 *H.* 4. 35.

The Kings Pardon is a good Plea in Barr of an Indictment. So that one was indicted before of the ſame felony, and acquitted upon it. *Young* 124, 125.

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CHAP. XV.

Some Indictments used in the Sessions of Justices of Peace.

Indictments for Slanders.

1. For slander of a Magistrate. *Glouc.* ſſ.

THe Jurors for the Lord Protector, do preſent &c. That whereas *D. P.* late of *A* in the County aforeſaid, Yeoman, at *A* aforeſaid, in the County aforeſaid, and *I P* late of &c. Laborer with force and arms, feloniouſly, and of their malice forethought, one *W W* in the year of our Lord God, 1650. had ſlayne and murdered. And whereas afterwards; that is to ſay, the firſt day of *May* in the year of our Lord God 1651. one *T G* at *L* in the County of *Lanc.* in conſideration of eighteen pounds of lawful money of *England*, to him by one *I P* contented and paid, undertook that the Murder of the ſaid *W W*, before the Juſtices &c. at *Lanc.* at the next general Gaol-delivery at *Lanc.* then next to be holden, ſhould be preſented, and found againſt the ſaid *D P* Manſlaughter only, and not Murder; and whereas alſo afterwards, *viz.* (ſuch a day & year) at *Lanc.* in the County of *Lanc.* before *I B* and *F R* two Juſtices of the Keepers &c. at the general Gaol-delivery, then and there holden, by the Oathes of twelve good

good and lawful men of the County of *Lanc.* it was found and presented, That the foresaid *D P* and *W P* with force and armes, feloniously, and of their malice forethought, the said *W W* did kil and murder, and so the killing of the said *W W*, then and there was found Murder, and not Manslaughter only: By reason whereof the said *I P* required the said *T G* to pay back the said eighteen pounds to the said *John*, which money the said *T G* did altogether refuse to pay to the said *J.* saying and alledging, that he had given and paid the said eighteen pound to certain persons; *viz.* to the said *F R* one of the Justices aforesaid, Ten Pounds. That the said *T G* late of &c. in the County aforesaid Yeoman, the first day of *June* in the same year, at *Lanc.* aforesaid, in the County aforesaid, malitiously, contemptuously and opprobriously in the publick reproach, scandal and defamation of the foresaid *F R*, (being one of the Justices aforesaid) his degree and dignity, did openly and publickly speak and utter these false, fained, scandalous and opprobrious words following; *viz.* That Justice *R.* meaning the said *F R*, had ten pounds, meaning Ten Pounds, part of the said Eighteen Pounds; whereas in truth, no such thing was by the said *F R* ever done; by reason of the speaking and uttering of which words by the said *T G*, the said *F R*, his Estate, Degree and Dignity hath brought into great reproach and contempt, as well amongst the Nobility and great men of this Commonwealth, as also among other good and faithful people thereof, and contrary to the form of divers Statutes in that case made and provided.

Part 2. Chap. 15

2. For ſlander of a common perſon.

The Jurors, &c. do preſent, That whereas *A B* of *C* in the County aforeſaid Yeoman, hath alwayes been of good name and fame, and of honeſt behaviour and converſation, and without any ſcandal, and without any ſtain of Robbery, Theft or any other Crime, and without any ſcandal of the ſame, and from all manner of Deceipts and Frauds and evil doings hath been from the time of his birth until this time, hath well behaved and governed himſelf, and of ſuch ſtate, converſation and honeſty hath been among all his neighbors and all other people of this Nation to whom he was known, without any whatſoever criminous wickedneſſe of Robbery, Theft, or any other Fraud, or other ſuch like Crime hitherto charged upon him. Nevertheleſs, one *S P* late of *Q* in the County aforeſaid Weaver, knowing the premiſes to be true, by the inſtigation of the Divel, and his own perverſe malice, intending the eſtate, honeſty and opinion of the ſaid A. to deprive and hurt, and the ſaid A to be taken to be of ſo evil converſation, condition and behaviour towards all the good and faithful people of this Nation, that he the ſaid A ſhould utterly periſh and be deſtroyed, and that all the faithful people of this Nation ſhould withdraw themſelves from his ſociety and company, —— ſuch a day and year &c. at *P* in the County aforeſaid in the preſence and hearing of *T S* and divers other credible perſons to the ſaid A. known, of the ſaid A did ſpeak, report, publiſh, and with a loud voice pronounce theſe Enlgiſh words following, *viz* A *B* is acquainted with all the Rogues and Theeves in the Country; & doth harbor many known Theeves in his houſe:

by

by reaſon of the ſpeaking, uttering and relation of which words, the ſaid A. in his eſtate, good name, and his affairs with honeſt men with whom he had commerce, is very much hurt and damaged, and contrary to the Peace, &c. Part 2. Chap. 15

Indictments for Reſcous of all ſorts, and for riotous Reſcous.

The Jurors, &c. upon their Oath do preſent, That whereas *I R* Bailiff of the Keepers &c. of *Darby*, by vertue of a Precept of the ſaid Keepers of *Levari facias*, to him directed by *H N* Gentleman Steward of the *Wapentake* Court of the ſaid Keepers &c. of *Darby*, did take one braſs pot of the Goods and Chattels of *E K* the Relict of *I K* of *W* in the County of *Lanc.* to take and levy the ſum of ſix ſhillings eight pence againſt the ſaid *E K* recovered in the foreſaid Court of the ſaid Keepers of *Darby*, to the uſe of *R H* of *N* in the County aforeſaid Gentleman, according to the form and effect of the Precept aforeſaid. *R K* late of *W* aforeſaid, in the County aforeſaid Huſbandman, the firſt day of *September*, in the year of our Lord God 1649 at *W* aforeſaid, in the County aforeſaid with force and armes, the ſaid pot from the ſaid Bailiff, did take and reſcue, and thereby the ſaid Bailiff in the execution of the ſaid Office did obſtruct and hinder, with force and armes as aforeſaid, in contempt of the Keepers &c. and to the evil example of other Maleſactors, and againſt the Peace, &c. 3. For Reſcous upon a Bailiff.

Part 2. Chap. 15

4. For a Reſcous of a Diſtreſſe, & a Ryot.

The Jurors do preſent &c. That whereas *A B* late of *C* in the County of *York* aforeſaid Huſbandman, the tenth of *September* in the year of our Lord God, 1652. was ſeiſed in Fee of twenty Acres of Land with the appurtenances at *M* in the ſaid County of *York*, which *I H* then held of the ſaid *A B* for terme of his life, by certain ſervices for yearly cuſtomes and ſervices, which being to him the ſaid *A B* then due and in arrear, he cauſed *R B* his ſervant to take and diſtraine one Cow of the ſaid *I H* then being and depaſturing in the ſaid twenty Acres of Land, and the ſaid *R B* the ſaid Cow then and there taken and diſtrained, in the name of a Diſtreſſe, according to the Law and Cuſtome of this Commonwealth of *England*, unto the common Pound at *M* in the County aforeſaid, would then and there have driven, and there to have kept the ſame. Nevertheleſſe one *R H* late of *M* in the County aforeſaid Husbandman, and *I K* at *L M.* &c. the ſaid tenth of *September* in the year aforeſaid, at *M* aforeſaid in the County aforeſaid, with force and arms; that is to ſay, with ſtaves daggers, clubs and other Weapons as well invaſive as defenſive, did unite, and riotouſly and unlawfully did aſſemble together, with intention to diſturb the Peace of the Commonwealth; and ſo being united and aſſembled in and upon the ſaid *R B* in the peace of God, and of the Keepers of the Liberty &c. being, did make an aſſault, and him the ſaid *R B* then and there with force and arms riotouſly did ſtrike, beat, and evil entreat; and the aforeſaid Cow then and there, that is to ſay, in the ſaid twenty Acres of Land at *M* aforeſaid, ſo diſtrained, from the ſaid *R B*

R B with force and armes, riotouſly did reſcue and take away, and other harms to the ſaid *A B* and *R B* then and there with force and arms, and riotouſly did do, to the great damage of the ſaid *A B* and *R B* and contrary to the Statute, &c. and againſt the Peace. Part 2. Chap. 15

The Jurors &c. do preſent, That whereas *I G* Conſtable of *A* in the ſaid County of *Lanc.* by vertue of a certain Warrant to him directed under the ſeal of *R H* one of the Juſtices of the Peace of the ſaid County, did take and attache one *T B* to do and receive, according to the tenor of the ſaid Warrant. Nevertheleſs one *G O* late of *A* in the ſaid County Husbandman; and *L M. N P*, (and ſuch as are to be indicted) the tenth day of April, in the year of our Lord God, 1652. at *A* aforeſaid with force and arms; that is to ſay, with ſtaves, ſwords, daggers, clubs and other weapons, as well invaſive as defenſive, did riotouſly unite, and unlawfully aſſemble and gather themſelves together to the great terror of the people, and with intent to diſturb the peace of the Commonwealth, and ſo being united, aſſembled, gathered together, then and there with force and armes, and riotouſly in and upon the ſaid *I G* in the peace of God, of the Keepers of the Liberty of *England* being, did make an aſſault, and him the ſaid *T B* with force and armes out of the cuſtody of the ſaid Conſtable riotouſly did take and reſcue, and the ſaid *T B* himſelfe out of the cuſtody of the ſaid Conſtable then and there did likewiſe reſcue, to the great damage of the ſaid Conſtable, againſt the peace, &c.

5. Reſcue upon a Conſtable.

Riot.

Part 2. Chap. 15

6. For a Reſcous of cattle, taken damage feaſant.

The Jurors &c. do preſent, That A B late of *D* in the ſaid County Yeoman, the firſt day of April in the year of our Lord God. 1652. was poſſeſſed of, and in the Manor of *H* aforeſaid, with the appurtenances in the County of *L* aforeſaid; the ſame *A*. the ſame day and year at *H*. aforeſaid, in the County aforeſaid, did find certaine Cattel; that is to ſay, ſix Oxen, four Kine in a certain field, containing by eſtimation twenty Acres of Paſture, parcel of the Manor of *H*. aforeſaid, there doing damage, which ſaid Cattel ſo then and there doing damage aforeſaid, *I R* and one *S T* the day and year aforeſaid, in the name of a diſtreſſe, then and there did take, and unto S. in the County aforeſaid did drive; where according to the Law and Cuſtome of the Commonwealth of *England*, in a certaine common Pound there would have impounded. Nevertheleſs one *T B* of *G* in the County aforeſaid Husbandman, and *S L* of *G* aforeſaid, in the County aforeſaid Labourer, with force and arms the day and year aforeſaid, at *S* aforeſaid, in the County aforeſaid, in and upon the ſaid *I R* and *S T* did make an aſſault, and the ſaid Cattel then and there with force and armes from the ſaid *I R* and *S T* did take and reſcue, contrary to the form of the Statute, and againſt the Peace of the Commonwealth.

7. For reſcuing of a man taken by a Bailiff.

The Jurors, *&c.* do preſent, That whereas *R* L. Eſquire, Sheriff of the County of *Salop*, by vertue of a Writ of the Keepers of the Liberty of *England*, by Authority of Parliament to him directed, the ſecond day of *July* in the year &c. 1653. did make a certain precept ſealed with his Seal

Seal, to *I P* and *L M* his knowne and ſworn Bailiffs, to take *R S* late of *T* in the ſaid County Yeoman, and him ſafely to keep, ſo that the ſaid Sheriff might have the body of the ſaid *R S* before the Juſtices of the ſaid Keepers at *Weſtminſter* in one month after *Michaelmas*, to anſwer unto *G H* of a plea, that he ſhould render unto him five pounds, which he owed, and unjuſtly detained from him as he ſaid. And whereas the ſaid *I P* and *L M* with the ſaid Precept at *W* in the County aforeſaid, the tenth day of *Auguſt* in the ſame year, did go unto him the ſaid *R S*, and him the ſaid *R S*, by vertue of the ſaid Precept, did take and arreſt. Nevertheleſſe the ſaid *R S* and one *T R* late of *G* in the ſaid County, Yeoman, and *G H*, late of *T* foreſaid, in the County aforeſaid Laborer, the ſaid tenth of Auguſt in the year aforeſaid with force and armes; that is to ſay, with Swords and Daggers, Staves and Clubs, and other Weapons and Armes, as well invaſive as defenſive, did riotouſly unite and gather themſelves together, and unlawfully aſſemble, to the great terror of the people, with intent to diſturb the Peace; and being ſo united, gathered together, and aſſembled then and there, with force and armes and riotouſly in and upon the ſaid Bailiff did make an aſſault; and the ſaid *R S* and *T R*, the foreſaid *R S* out of the cuſtody of the ſaid Bailiff with force and armes, and riotouſly did take and reſcue, and ſuffered him to go at large. And the ſaid *R S* did likewiſe reſcue himſelf out of the cuſtody of the ſaid Bailiff, to the great damage, &c. and againſt the Peace, &c.

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8. For rescuing himself.

The Jurors &c. That whereas *T.* Esquire, one of the Justices of the Peace in the County aforesaid, to conserve assign. Commanded a certain *R* Constable of the Tithing of C. in the County aforesaid, that he should take a certain *I* lately of &c. and the same *I* before the said Justice cause to be brought, to answer those things, which of the said Keepers of &c. should be objected against him: by vertue of which Warrant, the same Constable (such day and year) at *W* foresaid, in the County foresaid, took and arrested the foresaid *I.* and him in his custody had, until after, *viz.* the same day and year, the foresaid *John* with force and armes, *viz.* with a certaine Fork, upon him the Constable assault made, and him beat and ill intreated; and himself from the custody of the foresaid Constable rescued and escaped, against the Peace, &c.

9. For rescuing Cattel taken Damage feasant.

The Jurors, &c. That whereas certain *B* and *C* of the servants of *J* the tenth day &c. certaine Beasts, *viz.* three Cowes of a certain *T* Gentleman in a certain close of him *I* at &c. depasturing and damage there doing, lawfully had distrained; that the foresaid *T* late of &c. and *M.* late of &c. having gathered to them very many other Malefactors and Perturbers unknown, of the publick Peace, in Warlike manner arrayed, by the instigation and procurement of the foresaid *T.* the same tenth day &c. themselves at &c. unlawfully, riotously and routously assembled unanimously, and gathered with that intention the said publick Peace to perturb, and then and there the servants of the foresaid *J.* the Beasts aforesaid,

Ryot.

ſaid, for the damage aforeſaid, them to Impound driving, did contradict, diſturb, and hinder, to the grievous damage of him *I.* and againſt the publick Peace. Part 2. Chap. 15

10. For the like.

The Jurors &c. That whereas *I* and *B* &c. the ſecond day, &c. at &c. by the command of a certain *I.* his Maſter, took and diſtrained ſix Bullocks and four Heifers of divers colours, of the goods and chattels of a certain *T.* then and there found, and the herb of the foreſaid *I.* depaſturing, and trampling, and thoſe to the Pound open — of *F*, would have driven, and there to remain, until by due forme of Law thence they ſhould be delivered: That the foreſaid *T.* late of &c. the tenth day &c. with force and armes &c. at, &c. upon the ſaid I. and *B.* ſervants of the foreſaid *I.* aſſault made, and the ſaid Bullocks and Heifers ſo taken and diſtrained from the cuſtody of the foreſaid *I.* and *B* then and there unjuſtly took and reſcued, againſt the Peace, &c.

11. For reſcue of goods.

The Jurors &c. That *T.* lately of &c. ſuch day and year with force and armes, at *F.* foreſaid in the County foreſaid, upon a certain *W P* in the Peace of God and the publick Peace then and there being, aſſault did make, and one braſſe pan which the ſame *W T* by vertue of the Warrant of *H.* Knight, Sheriff of the County foreſaid had arreſted out of the poſſeſſion and hands aforeſaid, with force and armes foreſaid, did take away and reſcue, againſt the form &c. and againſt the publick Peace &c.

The

12. For rescuing cloth from Searchers.

The Jurors &c. That whereas *A* and *B* Searchers of Cloathes within the Pariſh of *A.* in the County aforeſaid (ſuch day and year) at *A* foreſaid, in the County foreſaid, by vertue of their Office foreſaid, had taken and ſeized three Cloths defective, of the Goods and Chattels of a certain *J.* And the Clothes foreſaid then and there in their cuſtody were; yet a certain *R.* lately &c. the ſaid day and year, with force and armes &c. at *A* aforeſaid in the County foreſaid, the Clothes foreſaid, from the cuſtody of the foreſaid *R.* and *B.* did take and carry away againſt the will of the foreſaid *A.* and *B.* and againſt the form &c.

13. For reſcuing another man.

The Jurors, &c. That whereas *E.* Eſquire, Sheriff of the County foreſaid, &c. of a certaine Writ to the ſame Sheriff directed, by a certain *W S.* Eſquire, one of the Juſtices of Peace, of the ſaid County, his Warrant bearing date (ſuch day and year, *&c.*) had commanded a certain *J* &c. his knowne Bailiffs, that they ſhould not omit for any liberty of the County foreſaid, but they ſhould take &c. lately, &c. if he ſhould be found in the Bailiwick of the ſame Sheriff, and him ſafely keep, ſo that the ſame Sheriff ſhould have the body of the ſaid *R* before the Keepers of the Peace of the ſaid County, and Juſtices of the Peace, to conſerve aſſigne at the next general Seſſions of the Peace, Tueſday next following after Low-Sunday to be held in the ſame County, whereſoever it ſhall happen to be held, to anſwer the Keepers of the Liberties &c. of certain Treſpaſſes and Contempts whereof indicted he was; by vertue of which Warrant, the ſame *J* and *D* ſuch day

and yeer, at *S* foreſaid, in the County foreſaid, did take the body of the foreſaid *R.* and him *R.* then and there in their ſafe cuſtody, had, untill after (*viz.*) the firſt day of *F.* and the year aboveſaid, then at *S.* aforeſaid, in the County aforeſaid, certain *R.* lately of &c. having gathered to them many other malefactors unknowne, with ſwords, bucklers, ſtaves, iron of defence, and falcaſtor armed, unlawfully, riotouſly, and with force and armes themſelves aſſembled, and upon the foreſaid *I* and *D.* then and there in the peace of God, and the publick peace being, aſſault did make, and the foreſaid *R* with force and armes, and unlawfully out of their cuſtodie, then and there reſcued and took away againſt the wil of the ſame *F.* and *D.* bailiffs aforeſaid, as alſo the foreſaid *R.* himſelf from the cuſtody aforeſaid of the ſaid *F* and *D.* did reſcue and eſcaped, againſt the will of the ſaid *F.* and *D.* and againſt the peace &c.

Riot.

14. Forreſcue of a mans ſelfe, and of another.

The Jurors for the Lord Protecter &c. do preſent that one *R B.* late in the Court of the keepers &c. of the Guild-Hall of the City of *Norwich* before *G B* and *G C* Sheriffs of the City aforeſaid, according to the uſe and cuſtome of the City aforeſaid; from the time whereof, there is no memory of man to the contrary, in the ſame uſed and approved, did bring againſt one *R P.* a certain plaint of a plea of treſpaſſe upon the caſe, and did crave proceſſe thereupon to be made againſt the ſaid *R P.* according to the uſe and cuſtome of the City aforeſaid; whereupon, according to the uſe and cuſtome aforeſaid, from the whole time aforeſaid, in the ſame uſed and appro-

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approved, it was commanded by the ſame Sheriffs, to *R G.* one of the Serjeants at the Mace of the ſaid Sheriffs, and Miniſter of the Court aforeſaid, that he ſhould take the ſaid *R P.* if hee were to be found within the City aforeſaid, and ſhould him ſafely keepe to anſwer to the ſaid *R B.* of the plea aforeſaid; by vertue whereof, the ſaid *R G* afterwards, that is to ſay, the tenth day of *F.* in the year &c. at *M.* aforeſaid in the County of the City aforeſaid, did take and arreſt the ſaid *R P.* and him under his ſafe cuſtody had, and would, and did endeavor him to have kept to anſwer to the ſaid *R B.* of the plea aforeſaid; and the ſaid *R G.* the ſaid *R P.* under his cuſtody, by vertue of the arreſt aforeſaid, as is aforeſaid, having, and intending to keep him ſafe, by vertue of the arreſt aforeſaid. The Jurors aforeſaid doe further preſent, that the aforeſaid *R P.* and one *W G.* of *N.* in the County of the ſaid City of *N.* labourer, the ſame tenth day of *F.* in the year aforeſaid, by force and arms at *N* aforeſaid, in the County of the City aforeſaid, upon the ſaid *R G* did make an aſſault, and affray, and the ſaid *R P.* did reſcue himſelf from the cuſtody of the ſaid *R G* from the arreſt aforeſaid, and went at large whether he would; and the aforeſaid *W G.* the aforeſaid *R P.* from the cuſtody of the ſaid *R G.* from the arreſt aforeſaid, then and there did take and reſcue, and ſuffer him to go at large where he would, againſt the will of the ſaid *R G.* to the evil example of other like malefactors, and againſt the publick peace &c.

Indict-

Indictments for treſpaſſes of all ſorts, and for riotous treſpaſſes.

The Jurors for the Lord Protector, upon their Oath preſent, that *I B* of &c. ſuch day and year &c. with force and arms &c. at &c. the cloſe of a certain *R D.* containing by eſteemation three acres of land, broke and entred, and the hedges and germin about the cloſe aforeſaid, then and there being and growing, unjuſtly took and carried away, and other things enormous to him hath done, to the grievous dammage of him *R D* and againſt the publick peace.

15. For entring a cloſe and taking away the hedges, &c.

The Jurors &c. that *A.* of &c. ſuch day and year &c. with force and arms &c. at *A.* in &c. the cloſe of a certain *I B.* Eſq; called the Home cloſe, at *A.* aforeſaid in the County aforeſaid, broke, and his herbs then and there growing, with certain beaſts (*viz.*) with their kine and hoggrels, eat up, trampled and conſumed to the grievous dammage of him the ſaid *I B* againſt the peace &c.

16. Treſpaſs in a cloſe, by eating the graſſe, &c.

The Jurors &c. that &c. the land and ſoile of one *T R* yeoman in a certain place called *B.* at *G.* aforeſaid, with his plough digged and ploughed up, to the grievous &c. and againſt the peace &c.

17. For ploughing.

The Jurors &c. that &c. with force &c. at *L.* &c. the cloſe of one *T M* &c. he broke and entred, and one cart load of hey, to the value of ten ſhillings of the goods and chattels of the aforeſaid

18. For carrying away hey.

T. then and there found, took and carried away againſt the peace &c.

19. For treading graſſe.

The Jurors, &c. that &c. with force &c. the cloſe of one *I K.* at *D.* in &c. called the low leaſe, broke and entered, and his herbe there lately growing, with his feet walking, trampled, and conſumed, and other things &c. then and there did, to &c. againſt the publick peace &c.

20. Riotous aſſault.

The Jurors &c. that &c. with force and arms, &c. *viz.* with ſtaves, ſwords and poniards, and other armes, as well invaſive as defenſive at *B.* aforeſaid in &c. in the common high way, there themſelves riotouſly and unlawfully aſſembled, gathered together, and then and there riotouſly and unlawfully upon one *I G.* Gent. then and there in the peace of God, and the publick peace being, then and there aſſault made, and him the ſaid *I G* then and there riotouſly and unlawfully beat, and evill intreated, ſo that of his life he deſpaired, and other things enormous to him then and there &c. to &c. and againſt the peace, &c.

21. The like

The Jurors &c. that *I S* of &c. ſuch a day, &c. with force &c. *viz.* with ſwords, ſtaves and knives, and other &c. in warlike manner arrayed at &c. themſelves unlawfully, riotouſly, and routouſly aſſembled, and all together gathered, and upon *T P.* Gent. in the peace &c. aſſault and affray made, and him then and there beat, wounded and evil intreated, ſo that his life &c.

The

The Jurors &c. that *I S* of &c. with force &c. at *D.* &c. upon a certain *J T.* one of the Conſtables of the peace of the Lord Protector, of *D.* aforeſaid in the &c. then and there in the peace &c. and in execution of his office, then and there aſſault made, and him then and there grievouſly did beat &c. ſo that &c. and other &c. to &c. and againſt the publick peace &c. 22. Aſſault of a Conſtable in the execution of his office.

The Jurors &c. That *I S* of &c. ſuch a day &c. at, &c. one Wether of black colour, of the goods of *I C.* of the value of five ſhillings, did ſlay and kill, and the skin of the ſame Wether, to the value of 12 *d.* of the goods and chattels of him the ſaid *I C* then at &c. found &c. did take away, againſt the publick Peace, &c. 23. For pulling ſheep.

The Jurors &c. That *I S* of &c. with force, &c. at &c. one Ewe of white colour, of the price of 12 *d.* of the goods and chattels of a certain *T S.* then and there found, then and there did take, and drive away againſt the publick peace, &c. 24. For taking away a ſheep.

The Jurors, &c. That *T S* lately of &c. ſuch day and year, &c. with force and armes, at *J* aforeſaid, in the County foreſaid, the Cloſe of a certain *T W* did break and enter, and one hundred Ewes great with young, and ten beaſts of the goods and chattels of the foreſaid *T W* in the Cloſe aforeſaid being and feeding, did chaſe and trouble, and the aforeſaid hundred Ewes and ten Beaſts then and there unjuſtly did impound, to the grievous damage of him the ſaid *T W*, and againſt the peace, &c. 25. For chaſing Cattel, and impounding them.

The

26. For taking away a horſe.

The Jurors, &c. That *A* &c. ſuch day and year, at *F.* foreſaid in the County foreſaid, the houſe and ſtable of a certain *I K* at *F* foreſaid in the County foreſaid, then and there with force and armes &c. did break, and one Mare, of colour brown, of the Goods and chattels of him *I K*, value 5 *l.* then and there found, unjuſtly did take, lead away and chaſe, to the grievous damage of him the ſaid *I K*, and againſt the peace, &c.

27. For ſtopping of water, & thereby turning it over a mans ground.

The Jurors &c. do preſent, That *T R* late of *S.* in the County of *M.* Yeoman, the day of &c. and at divers other dayes and times, as well before as after, at *S.* aforeſaid in the County aforeſaid, a certaine water courſe did ſtop and turne, by means whereof, the ſaid water courſe did flow upon the ſoile and free hold of *T F* and *G F.* to the great dammage of them the ſaid *T F* and *G F* againſt the peace &c.

28. For breaking of a houſe.

The Jurors, &c. That *A.* &c. the day &c. by force &c. at &c. one meſſuage with the appurtenances of *I S.* did enter where no entry is given by the Law, contrary to the forme of the ſtature in ſuch caſe made and provided, and aganſt the publick peace &c.

29. For milking kine.

The Jurors &c. that *I S.* of &c. ſuch a day and year, with force and arms &c. at &c. two Cowes of a certaine *R D.* milked and &c. and a quart of milk of the value of one penny of the goods of the ſaid *R D* then and there found, took, and carried away againſt the peace, &c.

The

The Jurors &c. do preſent, That *C D.* of &c. the day and year &c. at *Dale* aforeſaid, by force and armes in and upon *A B* &c. did make an aſſault, and affray, and him did beat, wound, and evil intreat, and alſo blood of the ſame *A B.* did draw, ſo that of his life he deſpaired, and other injuries to him did, to the great dammage of &c. and againſt the publick peace &c.

30. For an aſſault.

The Jurors for the keepers &c. do preſent, that *I S.* &c. the day, and year, and place &c. by force and arms &c. the Park and cloſe of *P. VV* Knight and Baronet did breake and enter, and his graſſe there growing with his feet walking, did tread downe and conſume, and other injuries to him, did to the great dammage of the ſaid *P VV* and againſt the publick peace &c.

31. For breaking ones park.

The Jurors &c. do preſent, That *A B.* late of *C.* in the County of *B.* husbandman, the firſt day of *May*, in the year &c. at *C.* aforeſaid in the County aforeſaid, with force and armes the Cloſe of *T F.* did break and enter, and then and there two burdens of young quickwood, to the value of two ſhillings, did root up, take and carry away, and other harmes to the ſaid *T F.* then and there did, to the great dammage of the ſaid *T.* and againſt the peace, &c.

32. For getting of quick wood.

The Jurors do preſent, That *VV F* of *D.* in the County of *L.* Husbandman, and *O F.* late of *D.* aforeſaid, in the County aforeſaid Laborer, the day of &c. in the year &c. at *D.* aforeſaid, in the County aforeſaid, with force and arms

33. For chaſing ſheep with dogs.

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one dog called a Grey-hound, and another dog called a curre, who uſed to bite ſheep, did keep, and then and there the foreſaid dogs to chaſe and bite the ſheepe of *I T.* there did encourage, that the ſaid dogs by the ſaid incouragement then and there four ſheep of the ſaid *I T* of the price of forty ſhillings, did chaſe, bite and kill, to the great dammage of the ſaid *I T.* and againſt the peace, &c.

34. For a treſpaſſe in corne.

The Jurors, &c. do preſent, That *A B.* late of *C.* in the County of *H.* yeoman, the firſt day of *May* in the year &c. the Cloſe of one *I S.* at *L.* in the County aforeſaid, commonly called the Barton Cloſe, with force and arms did break and enter, and the graſſe, and the blade of wheat of the ſaid *I S.* then and there growing, to the value of twenty ſhillings, with certain oxen, and other cattel of the ſaid *A B.* then and there did depaſture, tread down and conſume, and the ground and ſoile of the ſaid *I S.* then and there with a plough did turn up, whereby the ſaid *I S.* all the profit and commodity of his ſaid ground, did for a long time after loſe, and other hurts to the ſaid *I S.* did, to the great dammage of the ſaid *I S.* &c.

35. For taking of a ſack.

The Jurors, &c. do preſent, That *I M* late of *A* in the County of *L.* aforeſaid, labourer, the firſt day of *May* in the year &c. at *V V.* in the ſaid County of *L.* the Manſion houſe of *H N.* with force and arms did enter, and then and there with force and armes, one ſack to the value of ſixpence, of the goods and chattels of the ſaid *H N.* then and there found and being, unlawfully

lawfully and against the will of the said *H N.* did take and carry away, and to his own use did convert the same to the great dammage &c. and against the peace, &c. Part 2. Chap. 15

The Jurors &c. do present, that *A B.* late of *C.* in the County of *L.* aforesaid, Gent. the first day of *May* in the year &c. at *C.* aforesaid in the County of *L.* aforesaid, the Close of *G H* with force and armes did break and enter, and then and there in the said Close, (that is to say) into three acres thereof, in which the barley of the said *G H.* to the value of forty shillings was growing, at such time as the said barley was eared, did hawk, and with his dogs commonly called Spaniels, did hunt, contrary to the forme of the Statute, &c. and against the peace, &c. 36. For hawking in corn

The Jurors, &c. do present that *A B.* late of *C.* in the County of *M.* aforesaid yeoman, the first day of *May* in the year &c. at *L.* in the County aforesaid with force and armes twenty Doves of the Dovehouse of *D E.* price ten shillings, with nets and other engines, did take and carry away, by meanes whereof, the said *D E* the flight of his doves did utterly lose, and other harmes to him did, to the great dammage of the said *D E.* and against the peace &c. 37. For taking Doves.

The Jurors, &c. do present, that *A B.* late of *C.* in the County of *M.* Yeoman, the first day of *May* in the yeare &c. with force and armes, that is to say, with swords, staves and knives, the Close of *R S.* at *V V.* did breake and enter, and 38. For selling trees & underwoods and carrying it away.

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the graſſe there growing to the value of twenty ſhillings &c. then and there growing, with certain cattel, (that is to ſay) with Horſes, oxen, kine, hogs and other beaſts, did depaſture, tread downe and conſume. And the trees of the ſaid *R S.* that is to ſay, ten Oakes, to the value of thirty ſhillings, and underwoods, that is to ſay, ten wain loads of underwoods, to the value of twenty ſhillings then and there growing, did fel, take, and carry away, and other hurt to him the ſaid *R S.* did to the great dammage of the ſaid *R S.* and againſt the peace, &c.

39. For taking away cattel &c.

The Jurors &c. do preſent, that *A B.* late of *C.* in the County of *R.* Yeoman, the day of &c. in the year &c. with force and armes the cloſe of *S P.* at *C.* aforeſaid, in the County aforeſaid, did break, and eight ſheep of the ſaid *S P.* price forty ſhillings, then and there found, did take and drive away, and the graſs of the ſaid *S P.* to the value of twenty ſhillings then and there growing with certain cattel, that is to ſay, with oxen, horſes, and other cattel did eat, tread down and conſume; and the treſpaſs aforeſaid, as to the eating, treading down and ſpoiling the graſſe aforeſaid, from the ſaid day of &c. aforeſaid, in the yeare aforeſaid, until the day of the taking of this inqueſt, at divers dayes and times did continue, and other harmes to him did, to the great dammage of the ſaid *S P* and againſt the peace, &c.

continuance

The Jurors &c. do preſent, That whereas *R B.* Gent. the fifteenth day of *July* in the year of our

our Lord God, 1649. and long before, and always hitherto was ſeiſed in his demeſne as of fee, of and in one Meſſuage, and twenty acres of land, ſix acres of paſture &c. with the appurtenances in *M.* in the County of *L.* to which Tenements, the ſaid *R B.* the ſaid fifteenth day of *July*, in the year 1649. aforeſaid, and alſo long before, and alwaies after, until this time hath had, and now of right ought to have common of paſture every year, and at all times of the year, with all and all manner of cattel in four hundred acres of paſture called the Hey in *M.* aforeſaid, in the County aforeſaid. Nevertheleſs *A B.* late of &c. *R C D* &c. and *E F* knowing the premiſes to bee true, contriving and deviſing how to diſinherit the ſaid *R B.* of *B.* of his common aforeſaid, the ſaid fifteenth day of *July* in the year aforeſaid at *M.* aforeſaid, in the Common aforeſaid with force and armes &c. that is to ſay, with ſpades, ſtaves, and other weapons, did riotouſly unite, and unlawfully aſſemble themſelves together, with intent to diſturbe the peace of the Keepers &c. and ſo being united and aſſembled, then and there with force and armes, and riotouſly into the ſaid foure hundred acres of paſture did breake and enter, with intent to digge the ſoile of the ſaid foure hundred acres of paſture aforeſaid, and the firſt day of *June* in the yeare aforeſaid, the ſoile of the foure hundred acres aforeſaid, did digge and turne up; by meanes whereof, the ſaid *R B* his Common of paſture aforeſaid, in the ſaid foure hundred acres of paſture, from the ſaid firſt day of *J.* in the year 1649. aforeſaid, until the day of the taking of this inqueſt, hath loſt,

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40. For breaking & digging the ſoile where another hath common of paſture.

Ryot.

Ryot.

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and other harm to him did, to his great damage, and against the Peace.

41. For palling out of eyes.

The Jurors &c. do present, That *A B* of *C* in the County of *E* Tinker, the day of — in the year &c. in a certaine place at *C* foresaid in the County aforesaid, called *W.* with force and arms, in and upon one *D T* of *C* aforesaid in the County aforesaid Yeoman, in the Peace of God and the Keepers, &c. being, did make an assault, and then and there of his malice forethought, with the nailes and the fingers of the said *A B*, the eyes of the said *D T* did dig and pull out, against the Peace, &c.

42. For false Imprisonment.

The Jurors &c. do present, That A. *B.* late of *C* in the County aforesaid Yeoman, the tenth day of April in the year of our Lord God 1652. at *L* in the said County of *Heref.* with force and armes, in and upon *D E* in the peace of God and &c. being, did make an assault, and him the said *D E*, then and there with force and armes did take, imprison and evil intreat, and the said *D E* so there in prison a long time, that is to say, by the space of ten dayes then next following, contrary to the Law and custome of the Commonwealth of *England*, did detain and keep, and other harms to him did &c. to the great damage, &c. and against the peace &c.

43. For a Battery, and maim.

The Jurors, &c. do present, That *A B* late of *C* in the County aforesaid Yeoman, the twentieth day of *May*, in the year &c. about four of the clock in the afternoon of the same day, at *C* aforesaid, in the County of *Northampton* aforesaid

ſaid in the High-way there, of malice of the ſaid *A B* forethought, for one *T F* in the Peace of God, and the Keepers of the Liberty of *England* &c. being, and upon the ſaid High-way, about his neceſſary buſineſſe labouring and going, did lay wait, with intention felonioufly the ſaid *T F* to maim; and then and there with force and armes, &c. in and upon the ſaid *F* in the peace of God &c. being, did make an aſſault, and him the ſaid *T F* then and there with force and armes &c. did ſtrike, beat, wound and evil intreat, ſo that of his life he did deſpair; & that the ſaid *A B* then and there with a ſword, which the ſaid *A B* in his right hand then and there had and held, the foreſaid *T F* upon his left hand feloniouſly did ſtrike, and gave unto the ſaid *T F* then and there upon the ſaid left hand of the ſaid *T.* one great wound, by which the ſinewes and veins of two fingers, that is to ſay, of the leaſt finger and the next finger unto the ſaid leaſt finger are ſo mortified and reſtrained, that the ſaid *T F* the ſtrength and uſe of the ſaid fingers hath wholly loſt, and ſo the ſaid A B the ſaid *T F* feloniouſly, and of his malice forethought, did maime in manner and forme aforeſaid, againſt the Peace &c.

The Jurors, &c. do preſent, That A *B* late of *C*, in the County of *H* aforeſaid Gent. the 10 day of *June*, 1653. at *L* in the County aforeſaid, with force and armes, that is to ſay, with ſwords, ſtaves and other weapons, as well invaſive as defenſive, &c. in and upon *I K* and *L M* ſervants of *N O*, did make an aſſault, and the ſaid *F K* and *L M*, contrary to the Law and

44. For falſe Impriſonment of a mans ſervant, whereby he loſt his ſervice.

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Custom of *England*, did impriſon, and by the ſpace of four dayes then next following in priſon did keep and detain: and that the ſaid *N O* the ſervice of his ſervants aforeſaid for a great time, that is to ſay, for the ſpace of one month then next following did loſe, and other harmes to him did, to his great damage, and againſt the peace, &c.

45. For taking Conies in a free Warren in the night.

The Jurors &c. That *A B* late of *C* in the County of *S* Laborer, —day of — in the year of our Lord 1650. with force and armes; that is to ſay, with ſtaves, Bills, Bowes and Arrowes, and other Weapons, as well offenſive as defenſive, the Park or free Warren of *D E* at *C* foreſaid, in the County foreſaid, about the hour of ten of the Clock in the night of the ſame day, did break and enter, and in the ſame Park or free Warren, with Harriers and Purſe-nets without the Licenſe of the ſaid *D E* did hunt, and forty Conies to the value of 3 *s.* 4 *d.* of the Goods and Chattels of the ſaid *D E* then and there found, did take and carry away, to the great damage of the ſaid *D E*, and againſt the Peace.

Indictments for hunting in Parks, &c.

46. For hunting in a Park in the night with dogs, &c.

The Jurors, &c. That *A B* of *L* in the County of *S* foreſaid; *C D* of *L* foreſaid, in the County aforeſaid Gent. and *R B* of *L* foreſaid Yeoman, the — day of *J.* in the year &c. about the hour of twelve in the night of the ſame day, having gotten unto them many other Maleſactors, diſturbers of the Peace, to the Jurors unknowne, with

with force; that is to say, with ſtaves ſtrengthned with iron, Bowes and Arrowes, Swords and Daggers, and other weapons, as well invaſive as defenſive, the Cloſe and Park of *F G* Eſquire, at *H* in the ſaid County of *S*, unjuſtly did break and enter, and the Deer of the ſaid *F G* then and there in the ſaid Park couchant and feeding with three Grey-hounds and a Buck-ſtall, which in the ſaid Park they held injuriouſly, did hunt and chaſe, and one Buck, then and there with the Greyhounds aforeſaid, riotouſly did take, kill and carry away, againſt the peace, and contrary to the form of the Statute, &c. Part 2. Chap. 15 Ryot.

47. For hunting in a Forreſt.

The Jurors, &c. That *A* of &c. and *B* &c. about the tenth hour in the night, having gathered to them very many other Malefactors and Perturbers unknowne, &c. the peace of the ſaid Lord the King, with force and armes, *viz.* &c. the Forreſt &c. in the County aforeſaid, unjuſtly did break and enter, and the Does of him our Lord the King, then and there in the Forreſt aforeſaid lodging and feeding, with certaine Dogs called Greyhounds, unjuſtly did hunt and chaſe, and one Do then and there being by the foreſaid Dogs riotouſly and unjuſtly did kill and carry away, againſt the form of the Statute, &c. Ryot.

48. The like.

The Jurors, &c. That *T T* and *B* &c. (as above) of the publick peace, the Cloſe and Park incloſed with Pale, of a certain *T* at &c. and the Does of him *T* then and there in the Park foreſaid, to the grievous damage of him *T* &c. with certain dogs, and one Net called a Buckſtall &c. and one Doe, &c. with the Net aforeſaid riotouſly, &c.

Indict-

Indictments for unlawful Games.

49. For keeping and using a house of unlawful Games.

The Jurors, &c. That *A.* of &c. in the County &c. Victular, the second day of *F* in the year &c. 1652. and continually after the said 2 day of *June* in the year aforesaid, until the twentieth day of the Month of *F.* in the year aforesaid, at *C* foresaid in the County foresaid, a common Bowling-Alley for his own proper gain, and then and there to play with Bowles unlawfully did keep and maintain, contrary to the form of the Statute, &c. And that *F* &c. of &c. in the County foresaid, and three other persons unknowne, the said second day of *F.* in the year aforesaid, the said common Alley did frequent, and then and there with Bowls unlawfully at Bowls did play, contrary to the form of the Statute aforesaid, and against the Peace, &c.

50. For keeping unlawful Games.

The Jurors &c. that *A* of &c. in &c. Victualler, the — day &c. in the year &c. 1652. and continually afterwards, until the twentieth day of &c. in the year aforesaid, at K. foresaid, in the County foresaid, a common house of Carding, Dicing and Table-playing, and for the proper gain and profit of the said *A* unlawfully hath held, kept, and maintained, contrary to the Statute in that case made and provided; and that the said *A.* the said third day of *S* in the year foresaid, and at divers other daies afterwards at *K.* foresaid, in his house foresaid, the foresaid unlawful Games of Carding, Dicing and Table-play-

playing, hath had, kept, exerciſed, uſed, ſuffered, allowed and maintained, contrary to the forme of the Statute, &c. and againſt the Peace, &c. Part 2. Chap. 15

The Jurors, &c. That *J D* of &c. Inn-holder, ſuch day and year, and divers other dayes and times, as well before as after, at *E* foreſaid, in the County foreſaid, a common houſe of Play, for his gain, profit and advantage proper, unlawfully did keep and maintain, and divers honeſt perſons of the ſaid commonwealth to his Manſion aſſembling and coming to divers Games and Playes unlawfully, *viz.* at Dice, Cards and Tables, did permit to play, to the evil example of others, and againſt the form &c. and Peace &c. 51. For keeping a houſe of unlawful Games.

The Jurors for the Keepers &c. do preſent, That *A B* of *C* in the County of *N* Inn-holder, the tenth day of *F* in the year of our Lord, 1650. and many other dayes and times, as well before as after, at *C* foreſaid, in the County foreſaid, for his own proper lucre, advantage, and livelihood, did keep and maintain a common houſe for unlawful ſports, and the day and yeer foreſaid, did ſuffer certain Servants, Laborers, Artificers, Husbandmen and other men unknowne, to exerciſe themſelves, and play at unlawful Games (that is &c.) at Cards, Dice and Tables in his houſe aforeſaid, for his lucre, advantage and livelihood aforeſaid, againſt the form of a Statute, in ſuch caſe lately ſet forth and provided, and againſt the publick peace, &c. 52 For maintaining unlawful Games in ones houſe.

Indict-

Indictments for keeping a Bawdy-house.

52. For keeping a Brothel house. The Jurors, &c. that *F* lately, &c. the day and year &c. and divers times, as well before as after, with force and armes at *T* foresaid in the County foresaid, did keep and maintain a Stewes house or Bawdy-house, to the grievous annoyance of the people of this Commonwealth, against the form &c. and against the peace, &c.

55. For the like. The Jurors, &c. That *A* of &c. In &c. Victualler, such day &c. at *T* &c. hath held and kept in his dwelling house there, a common Bawdy-house, and suffered many persons suspected, and of ill behaviour and fame, to have carnal knowledge with Whores, to the great grievance of all the Inhabitants there, and to the evil example of others there dwelling, and against the Peace, &c.

Indictments for a Barretor.

56. A Barretor. The Jurors &c. That &c. and divers other dayes and times, as well before as after, at *D* aforesaid in the County aforesaid, or elsewhere in the County foresaid was, and yet is a common Barretor, Calumniator, Perturber of the publick peace, and a sower of strifes and discords betwixt the

the good people of this Commwealth, and oppressors of his neighbors, so that divers strifes and controversies betwixt the said people he hath moved and raised, to the great disturbance of them, to the evil example of others, against the publick peace, &c. Part 2 Chap 15

57. For the like.

The Jurors, &c. That *A* of &c. in the County &c. in the year &c. at *C* foresaid, in the County foresaid was, and yet is a common Barretor, and disturber of the Peace of the Commonwealth, a daily, and open, common and turbulent railer, fighter, a sower of discord among his neighbors, so that he hath moved, procured, and stirred up many contentions and quarrels, then and there, and elsewhere in the said County of *S.* among divers of the people of this Nation; to the great disturbance of the peace, and against the Peace.

An Indictment for Conspiracy.

58 Conspiracy of Bakers touching making of Bread.

The Jurors, &c. That *A* &c. and *G* &c. in the County of &c. Bakers, the day &c. in the yeare &c. at *F* aforesaid, in the County of *L.* aforesaid, did meet together and conspire, and mutually between themselves agree, that a penny loaf of clean Wheat (by them or any of them, from thenceforth to be made and sold) should weigh but two pound and six ounces of *Troy* weight, what price soever hereafter the price of a Quarter of Wheat should be, in contempt of the Keepers of the Liberties of *England*, and the great grievance

grievance of the poore people of the Common-Wealth, and contrary to the forme of the Statute in that case made and provided.

Indictments for Inmates.

59. For Inmates.

The Jurors &c. that *A.* of &c. Taylor, the day and yeer, &c. and being owner of a Cottage, then in his occupation at *C.* in &c. did place one *D E* an inmate in the Cottage aforesaid, and the said *E.* with the said *A.* in the cottage did there inhabit from the said twentieth of *J.* aforesaid, by the space of two monthes, then next following; and the said *A.* did permit and voluntarily suffer the said *E.* an Inmate as aforesaid, with him the said *A.* to dwell by the space of two months contrary to the form of the stat. &c. and against the peace &c.

Indictments for refusing to watch.

60. Refusing to watch.

The Jurors &c. That *A.* of &c. in the County &c in the year &c. at *L.* in the said County, was by the Constable of the towne of *L.* aforesaid, commanded to keep watch together with other inhabitants of the said Towne of *L.* within the said Towne from Sunne setting of the said first day, until the Sunne rising of the second day of the same Month of *J.* next following, according to the forme of the Statute in that case made and provided. Nevertheless, the said *A.* the Lawes of this nation not regarding, at *L.* aforesaid in the County aforesaid, the first day of *J.* in the

the year aforesaid to do and keep watch there did altogether refuse and deny, and made default, contrary to the forme of the Statute aforesaid; by reason whereof, the watch within the said Towne of *L.* was not kept, to the danger of the people of the Common-wealth, and against the peace, &c.

Indictments for a turbulent person.

61. Common breakers of the peace.

The Jurors &c. that *H.* lately &c. such day and year with force and armes at *B.* aforesaid, in the County aforesaid, was, and elsewhere in the County aforesaid is, and for many yeares by past hath been a common perturber of the publick peace, and an oppressor of very many of his neighbours, and of other the people of this Commonwealth, in the County aforesaid, as also a common malefactor, riotor, fighter, and sower of strife and discord betwixt his neighbours aforesaid to the great harm, grievance and perturbance of this common wealth in the County aforesaid, against the publick peace, &c.

Indictments for false weights and measures.

62. For making broadcloth above 28 yards.

The Jurors &c. that *W.* lately &c. such day and yeare, &c. at *S.* aforesaid in the County aforesaid one broad cloth listed, called a broad listed white, containing in length thirtie and one yards, fraudulently and deceitfully then and there did make and work, to the great con-

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contempt &c. and againſt the forme &c.

63. For the like.

The Jurors &c. that *A.* lately &c. Clothier, ſuch day and year at *VV.* &c. one broad cloth called a broad liſted white cloth, wanting one yard of its due meaſure then and there did make and work, to the contempt &c. and againſt the forme &c.

64. For making ſmall bread.

The Jurors, &c. That *T.* lately &c. ſuch a day and year at *P.* foreſaid in the County aforeſaid, his loaves every of them of the price of one penny of wheat weighing but twelve ounces, to be ſold to the people of this common wealth, fraudently, and deceitfully then and there did make, and to the great grievance of the people of this common-wealth, and againſt the forme of the Statute, &c.

65. For ſelling with falſe weights.

The Jurors &c. doe preſent, that *T.* of &c. in the County of &c. Grocer &c. in the yeare, &c. at *N.* aforeſaid, in the County &c. hath had and uſed one pound weight, being falſe and defective, and not agreeing in weight with the ſtanderd and weight of the Keepers &c. for the weighing within this Commonwealth of *England* in ſuch caſe ordained, and in the cuſtody of the Maior of the City aforeſaid, at *N.* aforeſaid in the County of the City foreſaid, according to the forme of the Statute of this Common-wealth, remaining; and by the ſame weight, the ſaid day and year at *N.* aforeſaid in the County of the City aforeſaid, falſely and deceitfully did weigh, ſel and utter divers wares weighable to divers of the people of this Common-wealth, to the great

deceit

deceit of this people &c. and in an ill example of other like malefactors, and againſt the forme of divers ſtatutes in like caſe lately made and provided. Part 2. Chap. 15

66. For ſelling beere by unlawful meaſures.

The Jurors &c. that *A.* &c. the day and yeare &c. and divers other dayes and times, as well before as after, at *C.* aforeſaid, did ſell and utter Beere and Ale to divers good and faithfull people of the keepers &c. by meaſures unlawful and not ſigned, and wanting in meaſure, in contempt &c. and againſt the form &c.

Indictments for officers.

67. Againſt a Conſtable for not puniſhing Rogues.

The Jurors &c. that *T C.* lately of &c. ſuch day and year, being Conſtable of the peace of the pariſh of *A.* in the County aforeſaid, at aforeſaid, divers rogues and ſturdy beggars, through his liberty unpuniſhed permitted to paſſe, to the evill example of other officers, againſt the publick peace &c. and againſt the form &c.

68. For not giving in the names of recuſants.

The Jurors &c. That *A.* of &c. ſuch day and yeare &c. being Conſtable of the peace at *D.* aforeſaid, in the County aforeſaid, his office foreſaid did neglect, and preſented not the names of the recuſants within his pariſh foreſaid at the general Seſſion of the peace in the County aforeſaid held, to the evil example &c. and againſt the peace &c. and againſt the form of the ſtatute &c.

The Jurors &c. that *B R* &c. being tithing man

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of *VV.* aforeſaid, in the &c. ſuch day and year, would not make inquiry in places ſuſpected within his Tithing, for certain men unknown, felons of the ſaid Common wealth, who for certaine felonies and robberies by them done, proſecuted, were upon hue and cry, nor the ſame hue and cry would follow from pariſh to pariſh, according to the form of the ſtatute thereupon ſet forth; but in exerciſing his office, ſlackly did bear himſelf, to the contempt &c. and againſt the forme &c.

69. For not following hue & cry.

70. For not aiding a Conſtable.

The Jurors &c. That *A.* of &c. ſuch day and year at *B.* foreſaid in the County foreſaid, did contemne and refuſe to aid *R.* then Conſtable of the peace there to conſerve, though often requeſted he was by the foreſaid *R.* to the evil example of others, and againſt the peace, &c.

Indictments for Hawking and Hunting.

71. Keepers of Hound.

The Jurors &c. that &c. with force and arms &c. at *B.* foreſaid in the County aforeſaid, ſix hounds called Beagles have kept, and have hunted; and the foreſaid *I B. I D.* and *G H.* have not, nor hath any of them Lands or Tenements of the yearly value of forty ſhillings, nor are, nor is either of them a ſpiritual man, againſt the forme of the ſtatute &c.

72. For trespassing Hares with the Bow.

The Jurors &c. that *A.* of *&c.* in the County *&c.* ſuch day and year *&c.* at *C.* aforeſaid in the

the County foreſaid, the ſnow being and lying then and there upon the ground, one Hare in the ſnow, with one dog called a *&c.* did find, trace and courſe, deſtroy and kil, contrary to the form of the ſtatute *&c.* Part 2. Chap. 15

Indictments for ſhooting.

The Jurors *&c.* that *A. &c.* ſuch day and year at *L.* in the County aforeſaid, divers pigeons and other fowls then and there with certain bowes did ſhoot, as alſo certaine nets for the taking of pigeons then and there did ſet, and foure pigeons of the value of foure pence, then and there with their Bowes and nets unlawfully did kil, againſt the form *&c.* 72. For ſhooting.

The Jurors *&c.* that *&c.* with a certaine Gun called an hand Gun, charged with powder and hail ſhot, upon three pigeons then at *F.* foreſaid in the County foreſaid, he ſhot, and it did diſcharge, and the foreſaid three pigeons then and there did kill, againſt the forme *&c.* and againſt the peace *&c.* 74. For the like.

Indictments for diſturbing a Miniſter.

The Jurors *&c.* That *A.* of *&c.* in the county *&c.* at *C. &c.* in the county *&c.* in the Pariſh Church *&c.* of his own power and authority *&c.* by theſe open and contemptuous words following by him the ſaid A. then and there in the Church aforeſaid, ſpoken *&c. viz. Come downe thou prating knave, &c.* maliciouſly and 75. Diſturbing a preacher.

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unlawfully did disquiet *T S.* of &c. Vicar of the parish Church aforesaid in his publick Sermon and preaching, which the said *T S.* then and there in the Church aforesaid made and pronounced, and other harms to the said *T S.* did, contrary to the form of the statute &c. and against the peace &c.

Indictments against Rogues and Vagabonds.

76. Rogues.

The Jurors &c. that *I S* &c. of &c. at *M.* in the County aforesaid found and taken, were by *A B.* Constable of the Hundred of *L.* and by *T P.* and *F N.* Constable of the Towne aforesaid, themselves then and there idlely, and ill bearing, and vagrant, against the form of the statute, in such case thereupon set forth and provided, and against the peace &c.

77. For a vagrant, going under the name of a Soldier.

The Jurors &c. that *A.* of &c. Labourer, being an idle person, and intending craftily, falsely and feloniously to deceive and defraud the keepers of the libertie of *England* &c. and the people of this Common-wealth, the day &c. in the year *&c.* one thousand six hundred fiftie three, and at divers other dayes and times, as wel before as after at *G.* and at divers other places within the said County, did as a Souldier, wander, and the said tenth day of *M.* in the yeare *&c.* at *G.* aforesaid, did feloniously counterfeit and invent a certaine Testimoniall in the name of one *W H.* falsely by the said testimony supposing, that the said *A.* landed at *Dover*

Dover in the County &c. the day of &c. and was allowed by the ſaid *W* to travel to the place where he was preſſed, or where he was born; whereas in truth the ſaid A B never landed at &c. and whereas &c. A B was never allowed by the ſaid *W* to travel to the place where he was preſſed, &c. contrary to the form of the Statute &c. and againſt the peace, &c.

An Indictment for keeping idle perſons and Vagabonds in their houſes, &c.

78. The Jurors, &c. That *A* of &c. in &c. Victualler, at *C* aforeſaid, the day and year &c. and continually after, until the day of the taking of this Inqueſt, hath received harboured, and ſupported divers Vagabonds, Whores and other idle and ſuſpected perſons of evil converſation, and doth continually keep evil rule and government in his houſe, to the great annuſance and diſturbance of his Neighbors, and contrary to the form of divers Statutes, and againſt the Peace, &c.

An Indictment for Forgery.

79 Forgery. The Jurors &c. That &c. ſuch day and year, &c. at &c. of his own mind, falſe imagination, conſpiracy and covin, a certain falſe deed; *viz.* a certain Indenture, by which a certain *T* ſhould bargain and ſell all thoſe Lands and Tenements, called &c. with the appurtenances &c. in *T* foreſaid in the County foreſaid, to a certain *I* wittingly

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tingly and ſubtilly and falſely did forge and make, and the ſame Indenture then and there did utter, publiſh and cauſe to be read, and in evidence did ſhew, to moleſt, diſturb, and deſtroy the eſtate, poſſeſſion, title and intereſt of the foreſaid *T.* in the Lands and Tenements foreſaid, by which the ſame *T* in this poſſeſſion &c. with the Appurtenances, was many wayes very much grieved and vexed, is to the contempt of the Laws &c. and the no ſmal damage and grievance of him *T*, and againſt the form of the Statute, &c.

An Indictment for Perjury.

80. Perjury.

The Jurors &c. do preſent, That *G L* of *B* in the County foreſaid &c. before *A S*, *R G* and *R L* Gent. Commiſſioners, by vertue of a Writ of Commiſſion of the Keepers &c. to the ſaid *A &c.* and *R L* and one *E M* directed, and out of the Court of the &c. of the High Court of Chancery, at *W.* in the County of *M* before that iſſuing for the examination of certain witneſſes, as well on the part of one *E T* Eſquire, as of the part of *M D* widow, and other Defendants in a certain matter or cauſe between them the ſaid *E* and *M.* and others perſonally conſtituted, and then and there being Witneſſes, brought by the ſaid *T C* and others, to teſtifie and depoſe in the cauſe aforeſaid on the part of the ſaid *T.* and being ſworn by the Commiſſioner foreſaid by vertue of the ſaid Commiſſion to ſay the truth upon Articles and Interrogatories to the ſaid Commiſſion annexed, and to him by the ſaid Commiſſioners upon their Oathes aforeſaid interrogated, of

and

and upon certain Articles, or &c. to the ſaid Commiſſion annexed, and on the part of the Defendants to the ſaid Commiſſioners ſhewne, the ſaid *G* the ſame twentieth day of *S.* in the year &c. at *B* aforeſaid ſhewne, did ſay and affirm, depoſe and anſwer upon his Oath, as in theſe words following; that is to ſay, That he the ſaid deponent &c. and ſo the whole depoſition, &c. as by the ſaid depoſition of the ſaid *G.* amongſt other things by the ſaid Commiſſioners, by vertue of the ſaid Commiſſion taken, and to the ſaid High Court of Chancery certifying and ſent, and there remaining upon Record, more at large appeareth; where in deed and truth, &c. and ſo the Jurors foreſaid do ſay, that the foreſaid *D* the ſaid 21 day at *S* in the year &c. at *b* foreſaid in the County foreſaid, before the ſaid *A S*, *R G* and *R L* Commiſſioners of the ſaid Keepers &c. ſo as aforeſaid being, did commit voluntary, and corrupt perjury, voluntarily, and corruptly, againſt the form of the Statute, in ſuch caſe lately made and provided, and againſt the publick peace, &c. Part 2. Chap. 15

An Indictment for killing Meat in the Lent.

The Jurors &c. That *E* &c. ſuch day and year, being in the time of Lent, at *L* foreſaid did kill three Calves, and the fleſh of them provenient then and there did ſel to divers honeſt perſons of this Commonwealth, having no lawful Li- 81.

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cenſe at that time ſo to do, againſt the form &c. and againſt the Peace &c.

Indictments for negligent keeping of fire.

82 The Jurors &c. That whereas by the Law &c. hitherto uſed and approved, every man and woman of the ſaid &c. is bound to keep their fire ſafe and ſecure, leſt by default of the due and ſafe keeping of ſuch fire, any damage ſhould happen to any of his or her other neighbors. Nevertheleſs one A *B* of &c. in the County &c. ſuch day and year was ſeized of a Meſſuage in the foreſaid Town of *C* in his Demeſne as of Fee, in which Meſſuage the ſaid A then and there was dwelling, which A then and there did ſo negligently and careleſly keep his fire, that for want of due keeping of his fire, the goods and chattels of *T F*, that is to ſay, ten loads of Timber of the ſaid *T F* at *C* aforeſaid, in the County foreſaid, to the value of ten pound, in the houſe of the ſaid *T F* then being, and the houſe and the ſtable of the ſaid *T F* to the ſaid Meſſuage adjoining, then and there was burned, to the great damage of the ſaid *T F*, and contrary to the cuſtome, &c.

An Indictment for not paying Wages.

83 The Jurors &c. That A &c. Clothier (ſuch day and year) at *W.* foreſaid, in the County foreſaid, certain Salary, taxed by the Juſtices of the ſaid County for the Peace, &c. of this County of *G* at the general Seſſions of the peace of the County foreſaid,

foreſaid, held at *G*, the Tueſday next after Low Sunday now laſt paſt, to his Weavers hath not given nor paid, but thereof wilfully default hath made, to the contempt of the Lawes, and great impoveriſhment of his Weavers foreſaid, and againſt the form of the Statute. Part 2. Chap. 15

Indictments for Deceit.

The Jurors &c. That *I* of &c. in the County &c. by colour and pretence of a certain Proceſſe, under a Seal of, &c. to one *F L* directed, did make compoſition with the ſaid *I L*, and then and there by colour and pretence of the ſaid Proceſs did of the ſaid *I L* the ſum of 10 *l.* in mony, numbred for himſelf, without any order or conſent of any Court, or &c. unlawfully obtaine and take, contrary to the form of the Statute in that caſe &c. the ſaid *I B* not being Clerk of any Court &c. 84

The Jurors &c. That *A* of &c. imagining and deviſing with himſelf how he might unlawfully obtain and get into his hands, the goods chattels and Jewels of other perſons for the maintenance of his unthrifty kind of living, then and there falſely and deceitfully did write and counterfeit a Letter in the name of one *R W.* to one *F B* being the ſpecial friend of the ſaid *R W* for the getting of three yards of woollen cloth, to the value of forty ſhillings of the aforeſaid *F B*: and the foreſaid *F B* afterwards, that is to ſay, the third day &c. at *M* foreſaid in the County foreſaid, by colour and meanes of the ſaid counterfeit Letter 85. For the like.

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Letter, made in the name of the ſaid *R W* as aforeſaid, three yards of woollen cloth to the value of &c. of the goods and chattels of the ſaid *F B*, from the ſaid *F B* falſly and deceitfully did obtain and get into the hands and poſſeſſion of the ſaid *A B*, contrary to the form of the Statute &c. and againſt the peace &c.

96. For the like.

The ſaid *A B* did then and there falſely and fraudulently imagine & invent a falſe token in the name of one *R W* to one *F B* being his ſpecial friend and familiar, for the getting of twenty ſhillings in money, numbred from the ſaid *F B*; then and there by colour of the ſaid falſe Token, made in the name of the ſaid *R W*, the ſaid twenty ſhillings falſely and deceitfully did obtain. *ut ſupra.*

Indictments for beWitching.

87.

The Jurors &c. That *D P* late of &c. Spinſter the wife of *J P* of *N* aforeſaid in the County foreſaid Baker, not having *God* before her eyes, but being ſeduced by the inſtigation of the Divel, the twentieth day of *A.* in the year *&c.* and divers other dayes and times as well before as after, at *N* foreſaid in the County &c. certain divelliſh acts called Inchantments, Witchcrafts, Charmes and Sorceries in and upon one *I K* of *N* foreſaid in the County of the City foreſaid Baker, wickedly, divelliſhly, felonioufly, and of her malice before thought did practice & exerciſe, wherby the ſaid *I K* the day foreſaid, and divers other daies and times, as well before as after, at *N* foreſaid, in the

the County, &c. was greatly tormented in his body, and did languish and became lame, against the publick peace, and against the form of the Statute, in such case lately made and provided.

88. Against a Witch for bewitching Bread.

The Jurors &c. That (as before, until, *in and upon*) ten loaves of Bread, to the value of 12 *d* of the goods and chattels of *W R* of *N* aforesaid in the &c. Baker, wickedly, divellishly, and of her malice before thought of, did practice and exercise; by the reason of the practicing of which said divelish Arts, ten loaves of Bread of the said *W R*, then and there were greatly hurt, against the publick peace, and against the form &c.

Indictments for stopping and turning High-wayes and Waters.

90. For stopping a common High-way.

The Jurors &c do present, That whereas within the Village of *S* in the County of *D.* in a certain place called *Alderbury*, there is, and by all the time whereof the memory of man is not to the contrary, there hath been a common Kings High way, leading from the Town of *H* in the County aforesaid, unto the Towne and Market of *O* in the said County, from the said Town of *H*, unto the said Town of *O*, by all the said time, as well to ride as go, and with their Carts and Carriages to passe, as also their Cattel to drive, and from thence back againe unto the same Town at all times of the yeare, at their will and pleasure. Nevertheless one *B. H.* late of *S* aforesaid in the County aforesaid Esquire, for his owne private gaine and commo-

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commodity, deviſing and intending to ſtop up the ſaid way, the firſt day of *May*, in the year *&c.* 1654. and at divers times, as well before as after, with force and arms *&c.* at *S.* aforeſaid, in the Countie aforeſaid, a certain ditch overthwart the ſaid common high-way, on that part of the ſaid high-way which extendeth between the Pariſhes of *O* and *A.* and the ſame with hedges and gates hath ſhut up and incloſed, and keepeth the ſame ſo incloſed; ſo that the people cannot have and enjoy the ſaid way, either to ride, or goe, or with their carts and carriages, or to drive their cattell in ſuch manner as they were wont to have and enjoy the ſame, to the great diſturbance of the people, and againſt the peace, &c.

91. For incloſing of a high way.

The Jurors *&c.* do preſent, That *A B* late of *C*, in the Countie of *E.* Gentleman, the firſt day of *May*, in the year *&c.* part of the common high-way leading from *W* unto *S.* in the Countie aforeſaid, that is to ſay, one rood of Land, parcell of the ſaid high-way, with hedge did incloſe and ſhut up, and the ſame way ſo incloſed from the aforeſaid firſt day of *May* untill this day, into paſture did convert, and doth keep; to the great dammage and annoyance of all the people of this Nation, dwelling neere to the ſame, whoſe right it is to goe that way, againſt the peace, *&c.*

92 For ſtopping up a high way.

The Jurors *&c.* do preſent, That whereas *G H* is ſeiſed in his demeſn as of fee, of and in two acres of

of land with the appurtenances in *F.* in the County of *K.* And that he and all thoſe whoſe eſtate the ſaid *G H.* of and in the Tenements aforeſaid with the appurtenances have had, and ought to have, by all the time whereof the memory of man is not to the contrary, a certain way in *F.* aforeſaid, as well on horſe back as on foot, and with all and all manner of Carts and Carriages from the Tenements aforeſaid, through and over a certain parcel of land in *F.* foreſaid in the County aforeſaid, now in the occupation of *O P.* unto the Kings high-way, in *F.* foreſaid, called &c. and to drive and redrive all and all manner of cattel from the tenements aforeſaid, through and over the ſaid parcell of Land in the occupation of the ſaid *O P.* unto the foreſaid Kings High-way, and from thence to the aforeſaid Tenements with the Appurtenances at all times, at his and their pleaſure. Part 2 Chap 15

Nevertheleſſe, one *R C.* late of *M.* in the Countie of *Lancaſter* husbandman, and *Jane C.* late of *M.* aforeſaid in the County aforeſaid Spinſter, wife of the ſaid *R C* the firſt day of *May* in the yeare of &c. one thouſand ſix hundred fiftie and foure at *S.* aforeſaid, in the Countie aforeſaid, by the direction and command of *R H.* of *S.* in the ſaid County Eſq; with force and armes in & upon the ſaid *G H.* and *T H.* the ſervants of the ſaid *G H* in the peace of God &c. then being, and in and through the ſaid way about their neceſſary buſineſſe labouring and going, did make an aſſault, and a certain gate at the entrance into the ſaid par-

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parcel of land in the poſſeſſion of the ſaid *G H.* overthwart the way aforeſaid, did make, erect, and keepe; by means whereof, the ſaid way is wholly ſtopped up. So that he the foreſaid *G H* cannot have nor make uſe of the ſaid way in manner aforeſaid, nor with his carts and carriages, nor drive nor redrive his cattel, to the great hurt of the Free-hold of the ſaid *G H.* and to the great dammage of the ſaid *G H.* and againſt the peace, &c.

92. For ſtopping up an uſual way.

The Jurors &c. do preſent, That *S S.* late of *S.* in the County of *S.* Yeoman the eighteenth day of *S.* in the year of our Lord 1654. by force and armes &c. a common foot path, leading from a certain place in *S.* called *Bonds* Green, to and towards the pariſh Church of *S.* aforeſaid, with a certain dike and hedge did ſtop up, ſo that the Foot-men could not paſſe by the ſaid path, and that the ſaid path, from the time whereof there is no memory of man, hath been uſed to be a common path-way, until the ſaid *S S.* hath ſtopped up the ſame in forme aforeſaid, and hath unjuſtly incloſed the ſame with a dike and hedge aforeſaid, againſt the publick peace, and to the great annoyance of the people of this Nation. &c.

93. For the like.

The Jurors &c. do preſent, That *M B.* late of *A.* in the County of *D.* Gent the firſt day of *May* in the yeer of &c. at *A.* foreſaid in the ſaid County of *D.* a certaine uſual way, leading from the Manſion houſe of *F G.* Gent. into the Kings high

high-way, lying and being betweene *M B.* and *F G.* unjuſtly and unlawfully did ſtop up, and would not ſuffer the ſaid *I G.* and his ſervants to have, uſe and enjoy the ſaid uſual way as they ought, and as from the time, the memory whereof is not to the contrary, they have uſed to doe, but hindered, and with force and armes ſtil doth hinder them, as aforeſaid, to the great damage of the ſaid *I G.* and againſt the peace &c. Part 2. Chap. 15

94. For ſtopping a high-way.

The Jurors &c. that whereas a certain common way from the time the contrary of which is not to the memory of man, was in a certain place called *N.* in the County foreſaid, leading to a certain Market Towne, called *A.* in the County aforeſaid, from the Market Town called *B.* in the County aforeſaid, by which way, the people of this Common wealth, from the time which the memory of man is not, hitherto uſed, were, and have accuſtomed to paſſe and travel with their Carts, Waines and other carriages from the town of *A.* foreſaid in the County foreſaid; That a certain A *B.* of &c. the 10. day &c. with force and arms &c. at &c. the way foreſaid in *N.* foreſ. in the County forſ. did ſtop up and obſtruct, and that ſo ſtopped up and obſtructed yet holdeth, by which the people &c. foreſ. by the way foreſ. with their carts, waines and carriages cannot paſs and travel, to the grievous damage, diſturbance, & common nuſance of the people of &c. and againſt the peace &c.

95. For incloſing an high-way.

The Jurors &c. that *I.* lately &c. ſuch day and yeare at *T.* aforeſaid in the County foreſaid, a certaine piece of the high-way, neere his manſion houſe, containing &c. with an hedg and

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and ditch, then and there incloſed, and ſtopped up, and the ſame piece of the high-way in ſeveral doth hold and keep, and for a garden uſeth, to the no ſmall dammage of the people of this Common-wealth by that way paſſing, againſt the peace. &c.

96. For ſtopping a foot-path.

The Jurors &c. that &c. ſuch day and yeare a certain foot-path, leading from *B.* towards *W.* in and by a certaine Meadow called *S.* in *T.* aforeſaid, in the County foreſ. unjuſtly did obſtruct and incloſe, ſo that the people of this common-wealth by that foot-path cannot go and return, to the great grievance and nuſance of the people of the ſaid common-wealth in theſe parts abiding, and againſt the &c.

97. For ſtopping a horſe way.

The Jurors &c. that *E.* &c. a certain common horſe way of the Kings, leading from *B.* aforeſaid in the County aforeſ. towards *C.* in and upon a certain bank or a wall contiguouſly adjacent to a certain &c. called *S.* in *T.* aforeſaid in the County foreſaid, unjuſtly did obſtruct and incloſe, ſo that the lieges &c. by that horſeway &c. as above in the laſt before.

98. For ſtoping a ſink in a Market Towne.

The Jurors &c. do preſent, That *I* &c. ſuch a day and year with force of arms &c. at *C.* aforeſaid in the County foreſ. a certain ſink or gutter leading from the Manſion houſe of a certain *R.* there by the houſe of him *J.* for all the neceſſaries of him *R*, by that ſink running and conveying, unjuſtly did ſtop up and hinder, to the grievous damage of him *R.* and to the great grievance of others the people of the ſaid Common-wealth there inhabiting, and againſt the publick peace, &c.

The

The Jurors &c. That *C.* &c. the day and year &c. and divers other daies and times, as well before as after, at *C.* aforesaid in the County foresaid, and elsewhere in the County foresaid, was and yet is a common drunkard, frequenter of Taverns, and perturber of the publick peace, and to the evil example &c. and against the forme, &c. and against the peace &c. 99. Against a drunkard.

Indictments against Ale-house keepers.

The Jurors &c. That *A.* &c. day and year &c. and divers other dayes and times as wel before as after, at *C.* aforesaid, in the county foresaid, obstinately, and out of his own authority, and without any admission and allowance of the Justices of peace of the County foresaid, took upon himself to keep, and did keep a common Ale-house or tipling house against the forme &c. 100. For selling Ale without licence.

The Jurors &c. do present, That &c. and divers other dayes and times as wel before as after, at *N.* in the County of *N.* in his mansion house, obstinately, and of his own authority did keep and maintain a common Ale-house, and then commonly and publickly did sell Ale and beere to divers of the people of the Common-wealth of *England*, not being thereunto admitted or allowed in open sessions of the peace &c. nor by two Justices of the peace &c. in the county aforesaid, one of them being of the *quorum*, against the form of the statute in such case lately made and provided, and against the publick peace &c. 101. The like.

The Jurors &c. do present, That whereas the 102. The like.

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City of *N* is, and from the time whereof there is no memory of man, hath been an ancient City, and that within the ſame City, and chiefly in *Maudlin ſtreet* in *N.* aforeſaid, in the County of the City aforeſaid, there are very many ancient common Innes, ſufficient to entertain all the good people &c. to or by the ſaid City riding, going or travelling. Nevertheleſs one *J W* of *N.* in the Countie of the City of *N.* Joyner, not being ignorant of the premiſſes, the eighteenth day of *J.* in the year of our Lord 1654. at *N.* aforeſaid in the County of the City foreſaid, in the pariſh of Saint Saviours in the County of the City foreſaid, within his manſion houſe in the pariſh aforeſaid, in the ſaid ſtreet called *Maudlin* ſtreet in the county of the City foreſaid, unlawfully, and of his own proper authority in this behalf obtained, hath newly ſet up one common Inn to entertain men to the City aforeſaid riding, travelling and paſſing, and the ſame his houſe as a common Inne from the foreſaid eighteenth day of *J.* in the ſaid year &c. 1654. until the day of the taking of this inquiſition at N. foreſaid, in the County of the City aforeſaid, hath unlawfully kept and maintained and yet doth keep and maintaine, to entertain men as aforeſaid in his manſion-houſe foreſaid, and divers men and people of this Common-wealth by the ſame way riding, paſſing and travelling, and with their horſes and goods to the City aforeſaid comming, in contempt of &c. and to the evil example of other like malefactors, and to the great dammage and prejudice of divers good people &c. who have and do lawfully keep and hold common Innes within the City foreſaid, and have lawfully held and kept ſuch Innes, according to the lawes and

and customes of this Common-wealth, by all the time aforesaid, against the publick peace &c. and against the form of the statute in such case lately made and provided. Part 2. Chap. 15

193. For keeping ill rule.

The Jurors &c. do present, That *A B.* late of *M.* in the County foresaid victualer, the first day of *May* in the year &c. 1654. and at divers other times, as wel before as after at *T.* aforesaid, did keep, and as yet doth keep a common tipling house without licence, and as wel the said first day of *May*, in the said year of our Lord 1654 aforesaid, as at divers other daies and times hath received and entertained in his said house divers several persons, as wel men as women of evil behaviour, fame and conversation; and evil rule in his said house from day to day did maintain and keep, & yet doth maintain and keep, to the evil example of the people of this nation, and manifest breach of the peace, and contrary to the statute &c.

194. For selling Ale without licence.

The Jurors &c. do present, That *A B.* late of *C.* in the County of *E.* victualler the first day of *June* in the year of our Lord God 1654. and continually afterwards until the day of the taking of this inquest — (or thus) — continually for many daies after, that is to say, until the first day of *July* in the year aforesaid, obstinately, and of his own authority without any admission or allowance of the Justices of the peace in the said county hath taken upon him to keepe a common tipling house, and there the said first day of *June*, & the said other daies afterwards, commonly and openly did sel ale and beer to divers of the people of this Commonwealth, in contempt of, and contrary to

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the ſtatute in Parliament of *Ed. 6.* late King of *Eng.* at *VVeſtminſter* in that caſe made and provided, and againſt the peace &c.

Indictments for ſtriking in a Church or Church-yard.

105. Churchyard

The Jurors &c. do preſent, That *I S.* late of &c. ſuch time and place in the Church-yard of the pariſh Church of *H.* foreſaid, malitiouſly did draw his dagger upon one *I S.* of &c. with intent to ſtrike the ſaid *I S.* with the ſaid dagger, againſt the peace, and contrary to the forme of the Stat. in that caſe made and provided.

106. For an aſſault in a Church.

The Jurors &c. that *E H.* the wife of *T H* of *H.* in the County &c. Gent. ſuch day and year &c. of her wicked and irreligious diſpoſition at *H.* foreſaid in &c. upon one *R.* Gent. in the peace of God and &c. in the Pariſh Church of H. foreſaid then and there being, ready to hear divine ſervice there celebrated, by force and armes &c. that is to ſay, with ſtaves, ſwords and knives did make an aſſault and affray, and did malitiouſly ſpit upon the face of the ſaid *R B.* and one Hat to the value of ten ſhillings of the goods and chattels of the ſaid *R B.* did take, and about the Church diſdainfully did caſt, and other wrongs to the ſaid *R B* then and there did, to the great damage of the ſaid *R.* and againſt the publick peace, &c.

Indictments for foreſtalling &c.

107.

The Jurors &c. that &c. the day &c. at &c. bought the whole barley growing upon 20. acres of land at &c. to the intent the ſaid barley to ſell again againſt the form of the ſtatute, and againſt the peace &c.

The

The Jurors &c. That *A.* of &c. in &c. ſuch day & year &c. in a certain market then and there holden, for forty ſhillings did buy, regrate, obtain and procure, and into his poſſeſſion and hands get 10. couple of lings and 3. firkins of ſalt butter of one *F F.* who the ſaid 10 couple of lings and &c. at the ſame market, and there brought the ſame to ſel and that immediately afterwards (that &c.) the ſaid day and year the ſaid *A.* in the ful market then and there at *B.* foreſaid in the county foreſaid holden all the couples of ling, and the ſaid firkins of butter to one *S R.* for 60. s. of lawful money of *Eng.* unlawfully did ſel, to the great damage of the Common-wealth, and contrary to the form &c. 108. For regrating fiſh and butter.

The Jurors &c. That *A.* of &c. ſuch day and year &c. 10. quarters of barly to the value of 10 l. of *G T.* did buy and ingroſs, and in his hands did keep, with intent to ſel the ſame again, contrary to the form &c. 109. For ingroſſing corn.

The Jurors &c. that whereas *A.* was poſſeſſed of 2 kine coloured black, of the price of 4. l. as of his proper goods; that *W.* of &c. yeoman the ſaid 2 kine going to the fair at *P.* to be ſold, before they came into the ſaid fair to be ſold, did buy, and had of the ſaid *A.* out of the fair, to the foreſtalling of the ſaid fair, contrary to the form of the ſtat. &c. 110. For foreſtalling.

The Jurors &c. 5. firkins of butter to the value of &c. and 5. weyes of cheeſe, to the value of &c. did buy to the intent to ſel again the ſaid butter and cheeſe againſt the form of the ſtat. and againſt the publick peace &c. 111. For butter and cheeſe.

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An Indictment for taking away a maid out of another mans custody.

The Jurors &c. that whereas by a ſtatute &c. That if any perſon or perſons being above the age of 14. years after the 1. day &c. ſhall unlawfully take or lead away, or cauſe to be taken or lead away any maiden or young woman unmarried, within the age of 16. years being from or out of the poſſeſſion, and againſt the will of the father or mother of ſuch maiden or young woman, or of or out of the poſſeſſion and againſt the will of ſuch perſon or perſons as then ſhall happen to have by any lawful wayes or meanes the ordering &c. of any ſuch maiden &c. that then every ſuch perſon or perſons ſo offending, being by order or due courſe thereof attainted or convicted (other then ſuch perſon or perſons of whom ſuch perſon taken away did hold any lands or tenements by Knights ſervice) ſhould have & ſuffer impriſonment of their bodies by the ſpace of 2 whole years, without bail or mainprize, or otherwiſe ſhould pay ſuch fine for his or their offence as ſhould be aſſeſſed by the Counſel of &c. Nevertheleſſe one *R.* late of *G.* in &c. ſuch day and year &c. the ſaid *R.* being then above the age of 14. not weighing the ſaid ſtat. nor fearing the penalty in the ſame ſtat. contained at *L.* &c. one *J. B.* one of the daughters of *L. B.* declared, within the age of 16. that is to ſay, of the age of 14. years, to which *J.* the ſaid *L.* by his laſt will and teſt. in writing did give & bequeath for the benefit and marriage of the ſaid *J.* 00. marks of lawful mony of *E.* and the government and marriage of which *J.* by the foreſaid teſt. and

laſt

laſt wil of the ſaid *L.* to one *H.* was lawfully committed: the ſaid *C L.* with force and arms the day, place, and year aforeſaid, being found from the poſſeſſions of the ſaid *H.* againſt the wil of the ſaid *H.* unlawfully did take and carry away, contrary to the form of the ſtat. and againſt the peace &c.

Indictments for an eſcape.

113. For an eſcape of a felon being delivered by a Tithingman to others.

The Jurors &c. That whereas *F.* Tythingman of *W.* foreſaid, in the county foreſaid ſuch day & year at *W.* foreſaid in the County foreſaid, by vertue of his office foreſaid, had taken a certaine perſon unknown, and vagrant for ſuſpition of felony, *viz.* for ſtealing one piece of linnen cloth of the value of ten pound of the goods and chattels of a certain *V V V.* and that perſon unknown, for the felony foreſaid taken, committed and delivered to certain *R.* and *T.* inhabitants of the Towne of *V V.* in the County foreſaid by them ſafely and ſurely to be kept for ſuſpition of the Felony foreſaid: yet the ſaid *R T.* after, viz. the foreſaid day and year at *V V.* foreſaid in the County foreſaid, the foreſaid perſon unknown for the ſuſpition of the felony foreſaid &c. out of their cuſtody at large whither he would, for defect of good cuſtody, to go negligently permitted, againſt the publick peace, &c.

114. For making an eſcape after arreſt.

The Jurors &c. that &c. being &c. yet the foreſaid *F.* the day &c. at &c. with force &c. unlawfully himſelf from the cuſtody of the foreſaid *T.* reſcued and eſcaped, againſt the peace, &c.

115. For ſuffering an eſcape after an arreſt.

The Jurors &c. that *F.* &c. being one of the Tithingmen of *D.* &c. the day and year &c. by warrant of *V V S.* one of the Juſtices to the ſame

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F. directed at *D.* foreſaid, took and arreſted a certain &c. to anſwer thoſe things which of the part of the Lord Protector ſhould be objected to him, yet the foreſaid *F.* the day of &c. at &c. him the ſaid *T.* then and there in his cuſtodie being, ſo negligently kept, that for default of good and ſufficient cuſtody the ſame *T.* from the foreſaid *F.* then and there evaded, and the ſaid *F.* at large ſuffered to go, to the evil example of other the people of this Common-wealth &c. and againſt the publick peace.

116. For making an eſcape.

The Jurors &c. That whereas *VV S.* Eſquire, one of the Juſtices &c. by his warrant bearing date &c. commanded the Conſtable of &c. to apprehend the body of *T* of &c. and him ſafely to bring before him the ſaid *VV S.* &c. and *I S.* being then Conſtable of *B.* foreſaid, the firſt day of &c. at &c. by vertue of the warrant aforeſaid, did arreſt the foreſaid *T.* according to the tenure of the foreſaid warrant, yet the foreſaid *T.* the warrant foreſaid little regarding, but contemning, then and there with force and armes, after the arreſt foreſaid, himſelf from the cuſtody of the foreſaid Conſtable reſcued and at large went, againſt the publick peace &c.

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